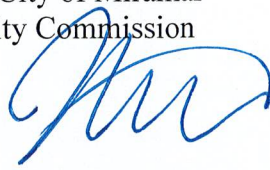




BROWARD OFFICE OF THE INSPECTOR GENERAL

MEMORANDUM

To: Honorable Wayne Messam, Mayor, City of Miramar
and Members, City of Miramar City Commission

From: John W. Scott, Inspector General 

Date: July 31, 2019

Subject: **OIG Final Report Re: *City of Miramar Employee Engaged in Misconduct by Doing Business with His Own Agency, Ref. OIG 16-006-C***

Attached please find the final report of the Broward Office of the Inspector General (OIG) regarding the above-captioned matter.

The OIG determined that Jose “Joe” Barrabi, the city’s chief mechanical inspector and the owner of All American Logo, a local shirt vendor, violated the State Ethics Code by having an employment or contractual relationship with a business entity that did business with his own agency, selling his company’s products to the building services division—where he worked—on nine occasions between June 23, 2015, and November 30, 2016. After paying Mr. Barrabi \$2,329.28 for these purchases and a purchase for the fire department, the city stopped buying from him due to the OIG investigation.

The OIG uncovered other, related issues, including that either Mr. Barrabi, his department director, and human resources failed to follow the city’s December 2017 policy requiring annual disclosure and approval of secondary employment or the city’s records custodian(s) failed to retain or produce records that would establish that they did follow the policy. Also, for almost seven years, the city operated outside its purchasing card (p-card) policy by foregoing a layer of review. After the investigation began, the city removed that additional layer of review, eliminating a step that could have helped to identify the issues the OIG articulates in its report. Finally, although a city ordinance required local businesses to pay business taxes prior to conducting business in the city, it had no process to ensure that local vendors to the city, such as Mr. Barrabi, were paying the taxes.

Attachment

cc: Hon. Dr. Barbara Sharief, Member, Broward County Board of County Commissioners
Vernon E. Hargray, City Manager, City of Miramar

BROWARD OFFICE OF THE INSPECTOR GENERAL



FINAL REPORT

OIG 16-006-C
July 31, 2019

*City of Miramar Employee Engaged in Misconduct by
Doing Business with His Own Agency*



BROWARD OFFICE OF THE INSPECTOR GENERAL

FINAL REPORT RE: *CITY OF MIRAMAR EMPLOYEE ENGAGED IN MISCONDUCT BY DOING BUSINESS WITH HIS OWN AGENCY*

SUMMARY

The Broward Office of the Inspector General (OIG) has completed an investigation that originated from a review of several Broward County municipalities' purchases from vendors that appeared to be city employees or related to city employees. Within Miramar, we focused our review on four vendors that conducted more than 30 transactions totaling over \$57,000 between January 2013 and April 2017.

Through our investigation, we substantiated that Jose "Joe" Barrabi, a city employee who conducted business as All American Logo, an embroidered shirt vendor, sold his company's products to the city on ten occasions for a total of \$2,329.28 between May 7, 2015, and November 29, 2016, when the city ceased the practice because of the OIG investigation. Of particular concern were nine of the transactions, totaling \$1,669.28, where Mr. Barrabi sold to the very agency for which he worked, as these sales constituted *per se* violations of the State Ethics Code prohibitions against public employees having conflicting employment or contractual relationships and against selling goods or services to their own agencies.

During our investigation, we also uncovered related issues in the city's administrative and procurement procedures that merit attention. Specifically, we discovered that either Mr. Barrabi, his department director, and human resources failed to follow the city's December 2017 policy requiring annual disclosure and approval of secondary employment or the city's records custodian(s) failed to retain or produce records that would establish that they did follow the policy. We also discovered that, for almost seven years, the city operated outside its purchasing card (p-card) policy by foregoing a layer of review prior to p-card purchases. After our investigation in this matter began, the city amended its p-card policy to remove that additional layer of review, eliminating a review process that could have helped to identify the issues we articulate in this report. Finally, although the city had an ordinance that required businesses located within the city to pay business taxes prior to conducting business, it had no process to ensure that local vendors to the city, including Mr. Barrabi's, were, in fact, complying with the mandate, despite the fact that the city afforded local businesses preference.

We are encouraged by Mr. Barrabi's acknowledgement of his conduct as well as the steps the city is taking to address the issues we describe in this report, which include, but are not limited to, a renewed focus on training as well as the revision of forms to clarify the city's expectations of its employees who wish to do business with the city. We are confident that these steps will put the city in a better position to identify potential issues in the future.

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FINAL REPORT RE: CITY OF MIRAMAR EMPLOYEE ENGAGED IN
MISCONDUCT BY DOING BUSINESS WITH HIS OWN AGENCY

OIG CHARTER AUTHORITY

Section 10.01 of the Charter of Broward County empowers the Broward Office of the Inspector General to investigate misconduct and gross mismanagement within the Charter Government of Broward County and all of its municipalities. This authority extends to all elected and appointed officials, employees, and providers of goods and services to the county and the municipalities. On his own initiative, or based on a signed complaint, the Inspector General may commence an investigation upon a finding of good cause. As part of any investigation, the Inspector General shall have the power to subpoena witnesses, administer oaths, require the production of documents and records, and audit any program, contract, and the operations of any division of the county, its municipalities and any providers. The Broward Office of the Inspector General is also empowered to issue reports, including recommendations, and to require officials to provide reports regarding the implementation of those recommendations.

RELEVANT GOVERNING AUTHORITIES

Florida Code of Ethics for Public Officers and Employees

Section 112.313, Florida Statutes - Standards of conduct for public officers, employees of agencies, and local government attorneys.-- . . .

(3) DOING BUSINESS WITH ONE'S AGENCY.— . . . Nor shall a public officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods, or services to . . . any political subdivision or any agency thereof, if he or she is serving as an officer or employee of that political subdivision. . . .

(7) CONFLICTING EMPLOYMENT OR CONTRACTUAL RELATIONSHIP.—

(a) No public officer or employee of an agency shall have or hold any employment or contractual relationship with any business entity or any agency which . . . is doing business with, an agency of which he or she is an officer or employee

(12) EXEMPTION.— . . . In addition, no person shall be held in violation of subsection (3) or subsection (7) if:

(a) Within a city or county the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the city or county.

(b) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:

1. The official or the official's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;

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FINAL REPORT RE: CITY OF MIRAMAR EMPLOYEE ENGAGED IN
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2. The official or the official's spouse or child has in no way used or attempted to use the official's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and

3. The official, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics, if the official is a state officer or employee, or with the supervisor of elections of the county in which the agency has its principal office, if the official is an officer or employee of a political subdivision, disclosing the official's interest, or the interest of the official's spouse or child, and the nature of the intended business. . . .

(f) The total amount of the transactions in the aggregate between the business entity and the agency does not exceed \$500 per calendar year. . . .

Section 112.316, Florida Statutes--Construction.

It is not the intent of this part, nor shall it be construed, to prevent any officer or employee of a state agency or county, city, or other political subdivision of the state or any legislator or legislative employee from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge by such officer, employee, legislator, or legislative employee of his or her duties to the state or the county, city, or other political subdivision of the state involved.

City of Miramar Code of Ordinances

ARTICLE XIV. – ETHICS AND CONFLICT OF INTEREST

Sec. 16-325. – Conflicting or incompatible outside employment enterprise, or business.

(a) Employment with the City of Miramar is deemed to be an individual's primary employment. Outside employment, enterprise, or business activity is permitted as long as there is no incompatibility or conflict of interest with the employee's city responsibilities. An employee who wishes to engage in paid employment in addition to city employment or who owns or has an interest in a business activity, or economic enterprise outside of city employment shall disclose such employment or activity to the city, on a form provided by the director of human resources. The department or division head and the director of human resources shall review such outside employment, enterprise or business activity in relation to the following criteria: Such activity shall not interfere with the efficient performance of the employee's responsibility with the city.

(b) Such activity shall not cause the reality or the perception of conflict of interest with the employee's duties.

(c) Such activity shall not involve the performance of duties which the employee should perform as part of city employment.

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(d) Such employment shall not occur during the employee's regular or assigned working hours unless the employee is on paid or unpaid leave of absence, or is exempt from the Fair Labor Standards Act and works on a flexible status. An employee engaging in outside employment shall recognize the obligation to, and be available for city work when called to work by the supervisor for an emergency or for the performance of overtime work required by the city.

(e) The work shall not be incompatible or conflicting with the responsibilities of the person as a city employee.

(f) The director of human resources shall review with the affected employee any request for outside employment, or business activity or enterprise which is not approved, and provide the employee with an opportunity to amend or modify the request to be compatible with these rules and regulations.

ARTICLE II.-BUSINESS TAX

Section 11-27. – Required.

(a) The city manager or his designee shall develop administrative procedures relating to the issuance of a business tax receipt ("receipt") and designate the department responsible for implementing said procedures and issuing the appropriate receipt. Every person engaged in or managing any business, profession or occupation in the city is required to have a city receipt and shall, on or before October first annually before engaging in or managing any business, profession or occupation, register with the city, their names, profession or occupation, and their place of business. In the event that October 1 falls on a weekend or holiday, the business tax shall be due and payable on or before the first working day following October 1. No person shall engage in or manage any such business, profession or occupation until after having obtained such receipt.

(b) This requirement shall apply to:

(1) Any person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any business within the city;

(2) Any person who maintains a permanent business location or branch office within the city for the privilege of engaging in or managing any profession or occupation within the city;

(3) Any person who utilizes their home for uses as outlined in subsection (1) or (2) above within authorized business activities.

(4) Any person who does not qualify under the provisions of subsection (1) or (2) above and who transacts any business or engages in any occupation or profession in interstate commerce where such tax is not prohibited by section 8 of article I of the United States Constitution. . . .

City of Miramar Administrative Policy Directives and Procedures Manual

Chapter 4.33.1 – Secondary (Outside) Employment (Date Issued December 6, 2017)

PURPOSE Secondary employment is defined as any work or services rendered for an entity other than the City, in exchange for remuneration. This includes an employee possessing partial or full ownership of a business, as well as independent contract by employees to provide labor, products, services or materials.

SCOPE All Employees . . .

OVERVIEW No employee of the City may hold secondary employment unless such is approved by the employee’s Department Director and the Human Resources Director. An employee who has the approval to engage in secondary employment must agree to hold primary responsibility to the work he/she performs for the City. The employee will not allow the secondary work to interfere with his/her work with the City.

CITY CODE [cites to Sec. 16.325 of the Miramar City Code] . . .

RESPONSIBILITY

1. Employees

When engaging in secondary employment it is the employee’s responsibility to ensure:

- A. “Secondary Employment Disclosure” form . . . is completed on a yearly basis, or when there is a change (or addition) in secondary employment status. Updates must be submitted within a 30-day period.
- B. Written approval is required before engaging in any secondary employment. . . .
- C. No potential risk of liability is created for the City.
- D. The secondary work does not create a conflict of interest with the work the employee is committed to performing for the City.
- E. No employment will create a conflict between the employee performing his/her public duties. . . .
- G. Work performance is not compromised. . . .
- K. The engagements in secondary employment activities are lawful and legal. . . .

2. Department Director

- A. Required to confirm each employee in [sic] respective department has a “Secondary Employment Disclosure” form completed a [sic] yearly basis or when there is a change (or addition) in secondary employment status.
- B. Provides review and recommendation of all secondary employment.
- C. Forwards the completed “Secondary Employment Disclosure” form to Human Resources.

3. Human Resources

- A. Requires a “Secondary Employment Disclosure” form be completed on a yearly basis or when there is a change (or addition) in secondary employment status.

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- B. Human Resources Director provides the final review and approval of all secondary employment.
- C. Notifies employee when a request for secondary employment is denied.

The City reserves the right to deny a request for outside employment that is deemed to be in conflict with this policy. The City can also request an employee terminate or discontinue his/her secondary employment if it is infringing upon the employee's primary work with the City or violates the secondary employment policy.

Any violation of the Secondary Employment Policy may result in disciplinary action, up to and including termination.

Chapter 12.11.1 – Purchasing Card Policy (Date Issued February 29, 2012) . . .

POLICY

The success of the City's Procurement Card Program relies on the cooperation and professionalism of all personnel associated with this initiative. The most important participant is the cardholder. The Cardholder is a key element in making this program successful.

The policies and procedures provided herein are minimum standards for departments. Departments may establish additional controls if necessary, but cannot alter the authorized policies and procedures herein.

The following is a summary of the responsibilities involved in the p-card process.

CARDHOLDER

- Attend training class prior to receipt of p-card
- Sign Cardholder's Agreement
- Sign back of p-card upon issuance
- Hold and safeguard p-card
- Do not loan or give out p-card to anyone else to use
- Use p-card for City business only
- Order supplies/materials
- Remind merchants of the City's tax exempt status and ensure no sales tax is charged (sales tax exemption number is imprinted on the face of each p-card)
- Sign, collect, save and scan sales receipts
- Ensure signed scan receipts are legible and easy to read
- Provide an approved preauthorization/usage form with description of each p-card transaction along with the sales receipt to the Department Supervisor/Coordinator . . .

INDIVIDUAL COVERED IN THIS REPORT

Jose “Joe” Barrabi

Mr. Barrabi has been with the city for over 20 years. He was the mechanical plans examiner in the building services division of the community and economic development department until August 2015. After that, he became the division’s chief mechanical inspector.

INVESTIGATION

Investigation Overview

Our investigation originated from a review of several Broward County municipalities’ purchases from vendors that appeared to be city employees or related to city employees. Within the city of Miramar, we focused our review on four vendors that conducted more than 30 transactions totaling over \$57,000 between January 2013 and April 2017. Through this investigation, we discovered that Mr. Barrabi, the city’s chief mechanical inspector and the owner of All American Logo, a local shirt embroidery vendor, violated state standards of ethical conduct by selling goods to his own agency. We also determined that staff (1) either failed to follow the city’s outside employment disclosure and approval process or failed to retain or produce records establishing that they did, (2) failed to follow the city’s p-card approval process, and (3) failed to ensure that required local businesses with which the city did business paid the city’s business tax.

During the investigation, the OIG analyzed substantial documentation from the city, including the city’s purchasing policies, outside employment policy and forms, code of ordinances, emails, vendor files, and employee files. OIG staff also interviewed several current and former city employees and local business representatives.

Florida’s Prohibition on Public Employees Doing Business with Their Own Agency

Part III of Chapter 112 of the Florida Statutes, also known as Florida’s Code of Ethics for Public Officers and Employees, generally regulates the conduct of public officials and employees to expose, manage, or prohibit potential conflicts of interest. It includes a law that prohibits local government employees from acting in their private capacity to sell goods or services to any agency of their own local government. F.S. § 112.313(3). In addition, public employees are prohibited from having an employment or contractual relationship with business entities that do business with their own agencies. F.S. § 112.313(7).

The ethics code is not intended to prevent public employees “from accepting other employment or following any pursuit which does not interfere with the full and faithful discharge” of their duties to their agencies. F.S. § 112.316. The law also provides specific exceptions to the prohibition cited above. Among them are instances where the total amount of the transactions between the business at issue and the public employee’s agency do not exceed \$500 per calendar year. F.S. § 112.313(12)(f).

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All American Logo's Transactions with the City

Mr. Barrabi has been a city employee for over 20 years. Until August 2015, he was a mechanical plans examiner in the building services division of the community and economic development department. Since then, he has been the chief mechanical inspector in that division.

Mr. Barrabi also directly owns the fictitious name of All American Logo, which name he used to operate a home-based embroidery business. Mr. Barrabi filed an original application for the fictitious name on March 11, 2011, and a renewal application on December 28, 2016. On ten occasions from May 7, 2015, through November 30, 2016, Mr. Barrabi, doing business as All American Logo, sold shirts to the city embroidered with logos of the fire department, building department, or city. He made one of those sales to the fire department and then sold to the building services division, for which he worked, on nine more occasions, until the city stopped the purchases because of the OIG investigation. The ten sales totaled \$2,329.28, as follows:

OIG Table 1: All American Logo Sales to the City, 2015-2016

INVOICE NUMBER	INVOICE DATE	P CARD PAYMENT DATE	AMOUNT	DEPARTMENT/DIVISION
1211	05/07/15	05/11/15	\$660.00	Fire
149	06/22/15	06/23/15	\$473.76	Building Services
157	08/23/15	08/24/15	\$141.92	Building Services
165	11/01/15	11/04/15	\$184.24	Building Services
177	05/03/16	05/04/16	\$89.92	Building Services
183	06/12/16	06/15/16	\$89.92	Building Services
185	07/05/16	07/06/16	\$89.92	Building Services
188	08/31/16	09/06/16	\$126.00	Building Services
195	10/30/16	11/01/16	\$89.92	Building Services
198	11/29/16	11/30/16	\$383.68	Building Services
		TOTAL	\$2,329.28	

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On June 15, 2015, Mr. Barrabi also responded to the city's invitation to bid for general fire department uniforms and clothing. In the bid package he prepared on behalf of All American Logo, Mr. Barrabi included a typewritten note advising that he was a city employee, but he did not file Florida Commission on Ethics (COE) Form 3A with the county supervisor of elections as required by state law in order to qualify for the exemption to the rule against doing business with one's own political subdivision. F.S. § 112.313(12)(b)(3).

In any event, the city subsequently canceled the solicitation and opted to piggyback on a Broward Sheriff's Office contract.

Mr. Barrabi Violated the State Ethics Code by Doing Business with His Own Political Subdivision and by Having a Conflicting Employment or Contractual Relationship

Our investigation revealed that Mr. Barrabi engaged in misconduct each of the nine times that All American Logo, his company, did business with the agency within which he served as chief mechanical inspector.¹

On April 29, 2013, Mr. Barrabi executed a city Secondary Employment Disclosure form. (Exhibit 1) Above his signature was a certification that included, "No secondary employer or I may be involved in initiating, negotiating, securing, drafting, creating, or entering into a contract with the City," "I may not use my position with the City to secure anything of value for a secondary employer," and "I may not use any asset of the City in connection with a secondary employment." It further stated, "Failure to provide accurate information . . . or to update this information as necessary, or to follow all policies regarding secondary employment, including those items listed above, may be a violation of City policy and/or and [sic] could subject me to corrective action up to and including termination of employment."

During his interview with the OIG, Mr. Barrabi expressed a willingness to accept responsibility for any malfeasance on his part in these transactions. But he also stated that he sought guidance from a city procurement analyst. He said that, after he registered to receive notice of city procurement opportunities, Mr. Barrabi's company received a city invitation to bid. Via emails to the procurement analyst on May 27, 2015 and June 4, 2015, he asked whether his company could bid on work with the city. (Exhibit 2) The procurement analyst, in turn, sought advice from the city attorney. On June 10, 2015, after consulting with the city attorney, the procurement analyst responded:

Hello Joe,

Good morning. I have sought guidance from the legal office in regards to your inquiry. In addition to this response, I will inquire if there are any additional administrative policy that further pertains to these instances. Please take a look at this Florida Statute and the

¹ Considering that the law provides that public employees are allowed to follow any pursuit that "...does not interfere with the full and faithful discharge" of their duties to their agency; that Mr. Barrabi did not report to, direct, or supervise anyone within the fire department; and that we found misconduct in his sales to the building services division as stated below, we decline to include his sale to the fire department in our misconduct finding. F.S. § 112.316.

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requirements that would need to be met. The Statute outlines the different requirements based on the type of solicitation process which is the reason you were asked to confirm the solicitation that you are referring to.

Response: The ability of a City employee to sell goods or services to the City is limited by Section 112.313(3)& (7), Fla. Stat. A Bid may be submitted in response to the competitive bid solicitation provided that the requirements of F.S. 112.313 (12), which provides exemptions from the general law that public employees, acting in a private capacity, shall not sell any realty, goods, or services to the employee's own agency, are satisfied, including the competitive bid requirements in subsection 12 (b)(1)(2)(3). The transaction would also need to comply with Section 112.313(7), Florida Statutes, which exists to prohibit employees who have outside employment or a contractual relationship with the city to make decisions or take actions in their public positions that could impact their private interests.

(Exhibit 2)

Mr. Barrabi acknowledged that he had reviewed the state statutes prior to engaging in the transactions, saying that they confused him. Yet, other than to comment on June 15, 2015, that chapter 112 definitions did not include one for "public officer" (Exhibit 2)—even though "public employees" were equally subject to these prohibitions—he did not follow up with the procurement analyst or the city attorney's office to clear up any confusion.

At about the same time that the procurement analyst emailed Mr. Barrabi, on June 10, 2015, she also emailed M.S., the administrative assistant who handled the building services division's purchases from All American Logo, and wrote that M.S. could purchase products from a city employee within her department so long as "the total amount of the transactions in the aggregate between the business entity and the City does not exceed \$500 per calendar year." The email went on to say, "If the amount exceeds (or is anticipated to exceed) \$500 per calendar year, the purchase may only be made if it qualifies for one of the other exemptions provided under Section 112.313(12), Fla. Stat and otherwise complies with the requirements in Section 112.313, Fla. Stat." (Exhibit 3) See F.S. § 112.313(12)(f).

Thereafter, M.S. conducted the purchases of Mr. Barrabi's products well in excess of the \$500 per calendar year threshold. According to M.S., she did so because she misread the email and believed the \$500 limit was per purchase, despite the fact that the procurement analyst's email referenced the transactions "in the aggregate" and twice referenced the "calendar year" qualifier.

Mr. Barrabi clearly understood there were limitations on transactions between his company and the city, and the city provided him with and explained the law that applied, including the very statutes we cite as the relevant authority for the misconduct we found in this investigation.

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Nevertheless, he opted to conduct business with his own agency, despite the fact that doing so *per se* interfered with the full and faithful discharge of his duties.² While he was selling his company's shirts to the building services division, Mr. Barrabi was the chief mechanical inspector in that agency. Mr. Barrabi directly reported to R.O., the chief building official of the building services division at the time of the purchases. R.O. approved the purchases from Mr. Barrabi's company. This arrangement is one that interfered with Mr. Barrabi's duties. For example, R.O. could have given, or looked like he gave, Mr. Barrabi leeway in his performance so long as the agency was content with All American Logo's products. The State Ethics Code's conflict provisions exist in order to avoid circumstances like this.

Mr. Barrabi had a conflicting employment or contractual relationship with All American Logo,³ which sold products to his very own agency within the city. None of the ten exceptions to the general rule applied to his sales to the building services division in 2015 and 2016. The sales to his own agency *per se* interfered with the full and faithful discharge of his public duties. Accordingly, Mr. Barrabi knowingly violated state law on each of the nine occasions he sold his company's products to the building services division.

Vulnerabilities in the City's Processes

In addition to finding Mr. Barrabi's misconduct, the OIG's investigation also identified deficiencies in the city's administrative and procurement processes.

1. The City Policy Requiring Annual Disclosure and Approval of Outside Employment

As part of our investigation, the OIG reviewed Mr. Barrabi's Secondary Employment Disclosure forms against the city's ordinance requiring the disclosure of outside employment and its December 2017 policy specifying that department directors and human resources must ensure that city employees make the disclosures annually.

Mr. Barrabi executed one such disclosure prior to these sales, on April 29, 2013, in which he listed his secondary employer as "City of Sweetwater Police Dept" with duties that included "Home based Embroidery Business" and a work schedule of Saturdays from 10 a.m. to 4 p.m. (Exhibit 1) Contrary to the form, there was no documented management review or approval of the information.⁴

Mr. Barrabi signed a similar Secondary Employment Disclosure on April 6, 2017, after these sales. (Exhibit 4) On this form, Mr. Barrabi listed his secondary employer as "City of Sweetwater 500 SW 109 Ave Sweetwater, Fl 33174" and his job title/duties as "Police Officer/ Uniform Patrol. Home based Embroidery Business/ self employed/ embroidery work" with

² See, e.g., Florida Commission on Ethics Opinion 15-2 (April 22, 2015), which opined that a school teacher was, absent an applicable exception, prohibited by F.S. § 112.313(3) and (7)(a) from selling, through a company she co-owned, items including embroidered shirts to the school, the school district, and other schools within the district where she worked.

³ The State Ethics Code defines "business entity" to include any "self-employed individual." F.S. § 112.312(5).

⁴ While the department director at the time Mr. Barrabi filed this disclosure did not have an independent recollection of this form, he indicated that he would have approved it if no conflict existed.

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working hours on Saturdays from 10 a.m. to 6 p.m. It appears that the department director and human resources director reviewed and signed this form. The department director checked the box, “Approval recommended. No interest or time conflicts present.”⁵

On December 6, 2017, the city issued a written policy on secondary or outside employment. The written policy appended an exhibit, the Secondary Employment Disclosure form revised in March 2017.⁶ (Exhibit 5) This version of the form specified that employees must complete the form regardless of whether they hold outside employment, and it required employees with secondary employment to reapply by January 1 of each year and within 30 days of any change in secondary employment status. Because Mr. Barrabi told the OIG in November 2017 that he filed his secondary employment form every year as required by the city rules,⁷ because he continued to work for the city, and because All American Logo remained active, when we requested all his disclosure forms from the city in mid-2019, we expected to see a 2018 disclosure. Yet, the city only provided the OIG his forms for 2013 and 2017. The city’s December 2017 written policy required the department director to confirm that all of his or her department’s employees completed a secondary employment disclosure on an annual basis and made human resources responsible to have all employees file the form annually. Despite two controls to ensure that secondary employment disclosures were filed annually, the city did not produce a 2018 disclosure for Mr. Barrabi. Thus, either Mr. Barrabi, his department director, and human resources failed to follow the written policy or the custodian(s) in charge of these records failed to retain or produce all of Mr. Barrabi’s forms.

2. For Almost Seven Years, the City Operated Outside Its P-Card Policy

The city’s Purchasing Card Policy and Procedures are outlined in Chapter 12.11.1 of the city’s Administrative Policy Directives and Procedures Manual. P-cards were credit cards that the city issued to employees to enable them to make certain purchases with city funds in accordance with that policy. When it was originally issued on February 29, 2012, and at all times material to the purchases at issue in this report, the policy directed that a p-card holder was responsible for, among other things, providing “an approved preauthorization/usage form with description of each p-card transaction along with the sales receipt to the Department Supervisor/Coordinator.” The form required the department director’s signature.

On December 6, 2018, after our investigation in this matter became known to the city, the city revised its p-card policy and eliminated reference to it being the p-card holder’s responsibility to obtain a pre-authorization form prior to conducting a transaction. Instead, the new policy charged department p-card supervisors with the duty to approve transactions, with accompanying “preauthorization form and sales receipts,” after the p-card holders conducted the transactions. Here, we did not see the involvement of a department director.

⁵ We did not impute any knowledge of the building services division’s 2015-2016 purchases from All American Logo by the director that signed Mr. Barrabi’s 2017 disclosure.

⁶ This was the same form that Mr. Barrabi completed in April 2017. (Exhibit 5)

⁷ Mr. Barrabi stated he did not keep copies of the disclosure forms he completed and filed.

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Through a March 6, 2019, email, the city’s procurement department director explained that, while the department created a preauthorization form in tandem with the 2012 policy and some of the larger departments used the form, the department never enforced the requirement, as most cardholders were already authorized users. As such, the department considered the form redundant.

Notwithstanding the fact that the new policy still required the use of “preauthorization” forms, the city continued to ignore pre-transaction review. By foregoing this additional layer of review prior to the approval of p-card purchases, the city may very well have missed the opportunity to identify the vulnerabilities discussed in this report, and may continue to do so for similar issues in the future if it does not reinstate a pre- or post-purchase, supervisory chain-of-command approval requirement and require those approvers and department p-card supervisors to complete proper training so that all may be aware of purchasing pitfalls beyond exceeding certain thresholds and failing to attach proper receipts.

3. The City Does Not Have a Process in Place to Determine Whether Vendors Have Paid Their Business Taxes

City Code Section 11-27(a) requires the city manager to “develop administrative procedures relating to the issuance of a business tax receipt... and designate the department responsible for implementing said procedures and issuing the appropriate receipt.” The ordinance also requires all businesses operating from within the city, including home-based businesses, to have a business tax receipt.

During our investigation, we reviewed the city’s purchases from four vendors that appeared to be either city employees or related to a city employee. Through that review, we noted that the city has a requirement that all businesses located within the city possess a business tax receipt prior to conducting business. Of the four vendors we reviewed, two vendors that were located in Miramar—one of which was All American Logo—had not paid their local business taxes at the time they were conducting business within the city.

The city had no process in place to ensure that local businesses from which it purchased were appropriately operating within the city. This is especially concerning, considering the fact that the city affords local businesses procurement preference. Indeed, the city encourages its staff to procure goods and services from local vendors, when economically viable, and City Code Section 2-454 authorizes the use of preference points for local businesses. It follows, then, that prior to affording these businesses preference, the city should have a process by which it confirms that the businesses are in compliance with local rules.⁸

INTERVIEW SUMMARIES

As a part of the investigation, OIG Special Agents conducted numerous interviews. The statements made in significant interviews are summarized below.

⁸ As it was outside the scope of our review and investigation, the OIG did not endeavor to quantify how much revenue the city lost on an annual basis.

1. Interview of Joe Barrabi

Mr. Barrabi had been with the city since approximately 1998. He was a mechanical plans examiner in the community and economic development department until August 2015. After that, he assumed the position of chief mechanical inspector. He had no procurement or purchasing authority, never participated in a vendor selection or evaluation process, and was not familiar with the city's procurement policy.

Mr. Barrabi was also the sole owner of a home-based embroidery business operating under the name All American Logo. All American Logo had a website advertising its business and generated no more than \$15,000 in annual sales. All American Logo had no employees.

In mid-2015, someone in the fire department, whose name he could not recall, asked Mr. Barrabi to fill an urgent request for fire department shirts with the fire department logo and the names of the city commissioners embroidered on them. He provided a quote and proceeded with the order at the person's direction. He had no personal, social, or business relationship with anyone in the fire department.

Shortly after the single order for fire department shirts, Mr. Barrabi learned that the city used DemandStar, a web based solicitation advertiser. Since he was able to sign up to receive solicitations from a single city for free, he signed up for solicitations advertised by Miramar. Soon thereafter, he saw that the city issued a solicitation for a number of fire department uniform and safety equipment products. He submitted a bid for shirts and hats only. In the bid package, he acknowledged that he was a city employee and that he was applying for a city occupational license. Mr. Barrabi did not apply for or receive a city occupational license until 2017 and did so only after he was advised by code enforcement staff that he was required to do so.⁹ He was not awarded the bid.

At the same time he submitted the bid package, Mr. Barrabi reviewed the state statutes regarding doing business with the city but found them confusing. He emailed L.B., a procurement employee, and questioned the propriety of him submitting a bid and doing business with the city. M.S., the building official's administrative assistant, received a response from N.R., a procurement analyst, wherein she cited the state statute regarding doing business with one's own agency.

In mid-2015, after the formal fire department bid solicitation, M.S. asked Mr. Barrabi to provide shirts embroidered with the city logo on an as-needed basis for its new-hire community and economic development department employees. He had a much faster turnaround time than the primary vendor.

Mr. Barrabi said that he sold approximately \$1,670 in goods to his department from May 2015 through November 2016, which was the last time he provided goods to the city. He thought he took the proper steps by soliciting opinions from persons who he thought would know if his

⁹ Mr. Barrabi sought the license after the OIG submitted its request for vendor records.

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business dealings with the city were proper. If they were not, he accepted full responsibility and believed the city should provide training on such policies.

2. Interview of M.S.

M.S. had been with the city since approximately 1999. She had been the administrative coordinator in the building division since approximately 2008. Her duties included general administrative tasks, including but not limited to paying bills, purchasing supplies, and processing purchase orders. In approximately 2014, the city issued her a city procurement card (p-card). She attended training on the city's procurement policy on an annual basis.

M.S. reviewed city records showing that on nine occasions from June 2015 through November 2016, she used her p-card to purchase shirts from All American Logo, for a total of \$1,669. No individual transaction was over \$500. The records appeared to be correct.

Joe Barrabi, an employee in the building division whom she had known for many years, owned All American Logo. She did not recall how All American Logo first came to her attention as a potential shirt vendor for division shirts. Although the city purchased shirts in bulk once a year, during the year, there was a need for shirts for new hires and replacements. The orders were generally small, but in the case of new hires, the shirts had to be delivered quickly so the new employees could go out in the field. All American Logo was convenient and was able to fill the orders quickly. M.S. did not obtain any other quotes.

Before placing the first shirt order, she and Mr. Barrabi discussed the propriety of him doing business with the division. He did not want to do any business unless it was proper. M.S. told him she would have to check with procurement before proceeding. Before she placed the first order, she contacted procurement by email. N.R., a procurement analyst, replied by email that it could be done up to \$500.

The division's director at that time did not have any issues doing business with Mr. Barrabi. He knew Mr. Barrabi was a city employee because he was once Mr. Barrabi's supervisor.

M.S. did not know if Mr. Barrabi had a city vendor license. She did not check, and she was not aware of any requirement that she do so. She believed that, if a purchase was processed through procurement, they would check on the licensing status. She also believed that vendors on the city vendor list had been vetted by procurement.

The division last purchased from All American Logo in November 2016. Sometime in 2017, she received a three-party call from the current procurement director and N.R., who told her not to do any further business with All American Logo. They did not imply that anyone did anything wrong but because of the OIG's investigation they reviewed the purchases and realized some exceeded the \$500 annual limit. At that time, she realized that the email she received from N.R. actually read that the \$500 limit was not per purchase, but per year. She acknowledged that the error was her oversight.

3. Interview of R.O.

R.O. was the chief building official for the City of Miramar from about 2015 until his retirement in December 2016. He reported to the director of community and economic development. He approved the purchases of embroidered shirts from Mr. Barrabi. M.S., the building department assistant, inquired into the propriety of purchasing from a city employee, and he assumed that since she made the purchases with her procurement card, it was determined to be proper. He did not personally follow up or make any further inquiries. All the purchases were small, and he thought that they purchased from Mr. Barrabi only a few times.

RESPONSES TO THE PRELIMINARY REPORT AND OIG COMMENT

In accordance with Section 10.01(D)(2)(a) of the Charter of Broward County, preliminary copies of this report were provided to the implicated parties for their discretionary written responses. The OIG received responses from the city and Mr. Barrabi. They are attached and incorporated herein as Appendices A and B, respectively. We appreciate receiving the responses.

1. Response of the City

In its response, the city generally acknowledged the conduct and processes that formed the basis of this report and described the steps it has taken and continues to take in order to address the issues we identified. These steps include continuing the expansion of ethics training, with an increased emphasis on outside employment issues, to reach all employees. The city is also revising its secondary employment form to require employees to certify that their secondary employment does not involve transacting business with the city.

The city opined that, although the OIG's conclusion that Mr. Barrabi violated the state ethics code was well-founded, Mr. Barrabi should be credited for recognizing that his conduct could cause a conflict of interest and credited for seeking advice from the city. It wrote that he appeared to misunderstand or be confused about the city's response regarding whether his company could do business with his division.

The city took issue with what it considered to be the OIG's implication that the 2018 revised p-card policy was less stringent than the original policy as a whole and allowed for new vulnerabilities. The city explained that its 2018 policy only shifted oversight responsibilities. The old policy required the p-card holder to provide an approved preauthorization/usage form, signed by the department director, to the department p-card coordinator; the revised policy required the p-card coordinator approve submitted transactions with what were termed "preauthorization forms" but were not executed prior to the transactions. It also wrote that some city departments bypass pre-authorization for p-card purchases but that it generally considered this an unnecessary step in the process, because department directors review them after the transactions are completed. In any event, the city posits, neither policy would have exposed the prohibited transactions, because "the City would have to know the connection between Mr. Barrabi and All American Logo," which it said could not be understood from the p-card process.

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Nonetheless, we appreciate the city's willingness to take the opportunities for improvement that we highlighted in our report. In particular, we are confident that the city's focus on alerting employees to the prohibition on doing business with the city on a new revision to the outside employment disclosure form and on increased training for all employees will enable all employees to be in a better position to spot ethics conflict issues in the future.

2. Response of Joseph Barrabi

Mr. Barrabi acknowledged that he "did not follow the correct procedures or use the correct forms" but did so without willful or malicious intent. He wrote that, to his detriment, he relied on the city's "misguidance" and pointed to the deficiencies we found in the city's administrative and procurement processes. Mr. Barrabi further explained that he believed that the city properly awarded his company its business.

We appreciate Mr. Barrabi's acknowledgement. However, we note that, even if there was an invitation to bid for the shirts his company sold to his division, which there was not, the ethics code did not prohibit the city from engaging in this transaction. It prohibited Mr. Barrabi from engaging in this transaction.

CONCLUSIONS

Following a multi-city review of vendors that appeared to be city employees or related to city employees, the OIG has concluded its investigation into concerns that City of Miramar employees engaged in misconduct by having improper conflicting relationships with city vendors in violation of the State Ethics Code. The investigation substantiated our concern. Specifically, we determined that Jose "Joe" Barrabi, the city's chief mechanical inspector and the owner of All American Logo, a local shirt vendor, violated the State Ethics Code by having an employment or contractual relationship with a business entity that did business with his own agency, selling his company's products to the building services division between June 23, 2015, and November 30, 2016, when the city stopped the purchases due to the OIG investigation.

Our investigation also unearthed related issues in the city's administrative and procurement procedures. We determined that either Mr. Barrabi, his department director, and human resources failed to follow the city policy requiring annual disclosure and review of outside employment or the city's records custodian(s) failed to retain or produce records that would establish that they did follow the process. In addition, for almost seven years, the city operated outside its p-card policy by ignoring a layer of review within the policy prior to the approval of p-card purchases. After our investigation in this matter began, the city amended its p-card policy to remove that additional layer of review, further eroding a review process that could have alerted staff of the shortcomings identified in this report. The investigation also revealed that, although the city required businesses located within the city, such as All American Logo, to pay business taxes prior to conducting business, it had no process to ensure compliance with the local vendors it purchased from, despite the fact that it afforded local businesses procurement preference.

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We are encouraged by the fact that Mr. Barrabi ultimately acknowledged his conduct. We are also pleased with the city's appreciation of the issues identified in this report, evidenced by the fact that it has already undertaken the steps to improve its processes that we would have recommended here.

OIG 16-006-C

EXHIBIT 1



CITY OF MIRAMAR

MHY 6 HML 1:26

SECONDARY EMPLOYMENT DISCLOSURE

The employment responsibilities to the City of Miramar are primary for any employee working full-time; any other employment in which that person chooses to engage is secondary. Outside employment, enterprise, or business activity is permitted as long as there is no incompatibility or conflict of interest with the employee's City responsibilities.

Department Community Development Employee Joe Barrabi

Secondary Employer City of Sweetwater Police Dept

Nature of employer's business and description of duties to be performed Detective Bureau
Administer City Programs, Investigate Criminal Reports.
Home based Embroidery Business.

(If additional space is needed, continue on the reverse side.)

Work Schedule (days/times of work): Saturdays 10 AM - 4 PM.

Employee Certification:

I will not engage in secondary employment that is or will become a conflict of interest, nor will the time demands or other commitments of any secondary employment interfere with my primary employment. Specifically, I understand that:

- No secondary employer or I may be involved in initiating, negotiating, securing, drafting, creating, or entering into a contract with the City.
- I may not use my position with the City to secure anything of value for a secondary employer.
- I may not disclose any confidential City information to a secondary employer.
- I may not use any asset of the City in connection with a secondary employment.
- I may not engage in any activity connected to secondary employment while engaged in my primary employment.

Failure to provide accurate information herein, or to update this information as necessary, or to follow all policies regarding secondary employment, including those items listed above, may be a violation of City policy and/or and could subject me to corrective action up to and including termination of employment.

Joe Barrabi 4/29/13
 Employee's Signature Date

TO BE COMPLETED BY HUMAN RESOURCES (If secondary employment indicated):

- Disclosure approved.
- Disclosure denied. The secondary employment presents an interest or time conflict with primary employment.

 Human Resources Director's Signature Date

Original: HR-Personnel File Copies: Employee's Department Employee

OIG 16-006-C

EXHIBIT 2

From: [Richmond, Natalie A.](#)
To: [Cross, Randy M.](#)
Subject: FW: Bid Solicitacion Number
Attachments: [image006.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image016.png](#)
[image001.png](#)



Natalie Richmond

Procurement Analyst | Procurement Department
City of Miramar | 2200 Civic Center Place
O: 954.602.3196 | narichmond@miramarfl.gov
Hours: M – Th., 7am – 6pm, F – Closed | www.miramarfl.gov
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From: Barrabi, Joe L.
Sent: Monday, June 15, 2015 5:20 PM
To: Richmond, Natalie A. <narichmond@miramarfl.gov>
Subject: RE: Bid Solicitacion Number

Natalie, I copied this from the definitions of chapter 112, it defines purchasing agent but not a Public Officer.

112.312 Definitions.—As used in this part and for purposes of the provisions of s. 8, Art. II of the State Constitution, unless the context otherwise requires:

- (1) "Advisory body" means any board, commission, committee, council, or authority, however selected, whose total budget, appropriations, or authorized expenditures constitute less than 1 percent of the budget of each agency it serves or \$100,000, whichever is less, and whose powers, jurisdiction, and authority are solely advisory and do not include the final determination or adjudication of any personal or property rights, duties, or obligations, other than those relating to its internal operations.
- (2) "Agency" means any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; any public school, community college, or state university; or any special district as defined in s. [189.012](#).
- (3) "Breach of the public trust" means a violation of a provision of the State Constitution or this part which establishes a standard of ethical conduct, a disclosure requirement, or a prohibition applicable to public officers or employees in order to avoid conflicts between public duties and private interests, including, without limitation, a violation of s. 8, Art. II of the State Constitution or of this part.
- (4) "Business associate" means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venturer, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or coowner of property.
- (5) "Business entity" means any corporation, partnership, limited partnership, company,

limited liability company, proprietorship, firm, enterprise, franchise, association, self-employed individual, or trust, whether fictitiously named or not, doing business in this state.

(6) "Candidate" means any person who has filed a statement of financial interest and qualification papers, has subscribed to the candidate's oath as required by s. [99.021](#), and seeks by election to become a public officer. This definition expressly excludes a committeeman or committeewoman regulated by chapter 103 and persons seeking any other office or position in a political party.

(7) "Commission" means the Commission on Ethics created by s. [112.320](#) or any successor to which its duties are transferred.

(8) "Conflict" or "conflict of interest" means a situation in which regard for a private interest tends to lead to disregard of a public duty or interest.

(9) "Corruptly" means done with a wrongful intent and for the purpose of obtaining, or compensating or receiving compensation for, any benefit resulting from some act or omission of a public servant which is inconsistent with the proper performance of his or her public duties.

(10) "Disclosure period" means the taxable year for the person or business entity, whether based on a calendar or fiscal year, immediately preceding the date on which, or the last day of the period during which, the financial disclosure statement required by this part is required to be filed.

(11) "Facts materially related to the complaint at issue" means facts which tend to show a violation of this part or s. 8, Art. II of the State Constitution by the alleged violator other than those alleged in the complaint and consisting of separate instances of the same or similar conduct as alleged in the complaint, or which tend to show an additional violation of this part or s. 8, Art. II of the State Constitution by the alleged violator which arises out of or in connection with the allegations of the complaint.

(12)(a) "Gift," for purposes of ethics in government and financial disclosure required by law, means that which is accepted by a donee or by another on the donee's behalf, or that which is paid or given to another for or on behalf of a donee, directly, indirectly, or in trust for the donee's benefit or by any other means, for which equal or greater consideration is not given within 90 days, including:

1. Real property.
2. The use of real property.
3. Tangible or intangible personal property.
4. The use of tangible or intangible personal property.
5. A preferential rate or terms on a debt, loan, goods, or services, which rate is below the customary rate and is not either a government rate available to all other similarly situated government employees or officials or a rate which is available to similarly situated members of the public by virtue of occupation, affiliation, age, religion, sex, or national origin.
6. Forgiveness of an indebtedness.
7. Transportation, other than that provided to a public officer or employee by an agency in relation to officially approved governmental business, lodging, or parking.
8. Food or beverage.
9. Membership dues.
10. Entrance fees, admission fees, or tickets to events, performances, or facilities.
11. Plants, flowers, or floral arrangements.
12. Services provided by persons pursuant to a professional license or certificate.
13. Other personal services for which a fee is normally charged by the person providing the services.
14. Any other similar service or thing having an attributable value not already provided for in this section.

(b) "Gift" does not include:

1. Salary, benefits, services, fees, commissions, gifts, or expenses associated primarily with the donee's employment, business, or service as an officer or director of a corporation or organization.
2. Except as provided in s. [112.31485](#), contributions or expenditures reported pursuant to chapter 106, contributions or expenditures reported pursuant to federal election law, campaign-related personal services provided without compensation by individuals

volunteering their time, or any other contribution or expenditure by a political party or affiliated party committee.

3. An honorarium or an expense related to an honorarium event paid to a person or the person's spouse.

4. An award, plaque, certificate, or similar personalized item given in recognition of the donee's public, civic, charitable, or professional service.

5. An honorary membership in a service or fraternal organization presented merely as a courtesy by such organization.

6. The use of a public facility or public property, made available by a governmental agency, for a public purpose.

7. Transportation provided to a public officer or employee by an agency in relation to officially approved governmental business.

8. Gifts provided directly or indirectly by a state, regional, or national organization which promotes the exchange of ideas between, or the professional development of, governmental officials or employees, and whose membership is primarily composed of elected or appointed public officials or staff, to members of that organization or officials or staff of a governmental agency that is a member of that organization.

(c) For the purposes of paragraph (a), "intangible personal property" means property as defined in s. [192.001\(11\)\(b\)](#).

(d) For the purposes of paragraph (a), the term "consideration" does not include a promise to pay or otherwise provide something of value unless the promise is in writing and enforceable through the courts.

(13) "Indirect" or "indirect interest" means an interest in which legal title is held by another as trustee or other representative capacity, but the equitable or beneficial interest is held by the person required to file under this part.

(14) "Liability" means any monetary debt or obligation owed by the reporting person to another person, entity, or governmental entity, except for credit card and retail installment accounts, taxes owed unless reduced to a judgment, indebtedness on a life insurance policy owed to the company of issuance, contingent liabilities, or accrued income taxes on net unrealized appreciation. Each liability which is required to be disclosed by s. 8, Art. II of the State Constitution shall identify the name and address of the creditor.

(15) "Material interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity. For the purposes of this act, indirect ownership does not include ownership by a spouse or minor child.

(16) "Materially affected" means involving an interest in real property located within the jurisdiction of the official's agency or involving an investment in a business entity, a source of income or a position of employment, office, or management in any business entity located within the jurisdiction or doing business within the jurisdiction of the official's agency which is or will be affected in a substantially different manner or degree than the manner or degree in which the public in general will be affected or, if the matter affects only a special class of persons, then affected in a substantially different manner or degree than the manner or degree in which such class will be affected.

(17) "Ministerial matter" means action that a person takes in a prescribed manner in obedience to the mandate of legal authority, without the exercise of the person's own judgment or discretion as to the propriety of the action taken.

(18) "Parties materially related to the complaint at issue" means any other public officer or employee within the same agency as the alleged violator who has engaged in the same conduct as that alleged in the complaint, or any other public officer or employee who has participated with the alleged violator in the alleged violation as a coconspirator or as an aider and abettor.

(19) "Person or business entities provided a grant or privilege to operate" includes state and federally chartered banks, state and federal savings and loan associations, cemetery companies, insurance companies, mortgage companies, credit unions, small loan companies, alcoholic beverage licensees, pari-mutuel wagering companies, utility companies, and entities controlled by the Public Service Commission or granted a franchise to operate by either a city or county government.

(20) "Purchasing agent" means a public officer or employee having the authority to commit

the expenditure of public funds through a contract for, or the purchase of, any goods, services, or interest in real property for an agency, as opposed to the authority to request or requisition a contract or purchase by another person.

(21) "Relative," unless otherwise specified in this part, means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee.

(22) "Represent" or "representation" means actual physical attendance on behalf of a client in an agency proceeding, the writing of letters or filing of documents on behalf of a client, and personal communications made with the officers or employees of any agency on behalf of a client.

(23) "Source" means the name, address, and description of the principal business activity of a person or business entity.

(24) "Value of real property" means the most recently assessed value in lieu of a more current appraisal.

Joe Barrabi

Chief Mechanical Inspector | Community & Economic Development Department

City of Miramar | 2200 Civic Center Place

Hours: M – Th 7am – 6pm | F - Closed

O: 954.602.3214 | F: 954.602.3635 | jlbarrabi@miramarfl.gov

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From: Richmond, Natalie A.

Sent: Wednesday, June 10, 2015 11:30 AM

To: Barrabi, Joe L.

Cc: Bartra, Luz M.; Cross, Randy M.

Subject: RE: Bid Solicitacion Number

Hello Joe,

Good morning. I have sought guidance from the legal office in regards to your inquiry. In addition to this response, I will inquire if there are any additional administrative policy that further pertains to these instances. Please take a look at this Florida Statute and the requirements that would need to be met. The Statute outlines the different requirements based on the type of solicitation process

which is the reason you were asked to confirm the solicitation that you are referring to.

Response: The ability of a City employee to sell goods or services to the City is limited by Section 112.313(3)& (7), Fla. Stat. A Bid may be submitted in response to the competitive bid solicitation provided that the requirements of F.S. 112.313 (12), which provides exemptions from the general law that public employees, acting in a private capacity, shall not sell any realty, goods, or services to the employee's own agency, are satisfied, including the competitive bid requirements in subsection 12 (b) (1)(2)(3). The transaction would also need to comply with Section 112.313(7), Florida Statutes, which exists to prohibit employees who have outside employment or a contractual relationship with the city to make decisions or take actions in their public positions that could impact their private interests.

NATALIE RICHMOND

Procurement Analyst | Procurement Department

City of Miramar | 2300 Civic Center Place, Miramar, FL 33025

Hours: M – Th 7am – 6pm | F - Closed

O: 954.602.3196 | F: 954.602.4573 | narichmond@miramarfl.gov

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From: Bartra, Luz M.

Sent: Thursday, June 04, 2015 1:56 PM

To: Richmond, Natalie A.

Subject: FW: Bid Solicitation Number

Please see below

From: Barrabi, Joe L.

Sent: Thursday, June 04, 2015 1:56 PM

To: Bartra, Luz M.

Subject: RE: Bid Solicitation Number

IFB-15-017-0-2015/NR or any other requests for quotes when in between contracts, my question is in generally doing business with the city whether it is in contract or not.

Thanks

Joe

Joe Barrabi

Chief Mechanical Inspector | Community & Economic Development Department

City of Miramar | 2200 Civic Center Place

Hours: M – Th 7am – 6pm | F - Closed

O: 954.602.3214 | F: 954.602.3635 | jlbarrabi@miramarfl.gov

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business are public records, and are available to the public and media upon request. Your email communications, including your email address, may therefore be subject to public disclosure. This message, together with any attachments, is intended only for the addressee. It may contain information which is legally privileged, confidential and exempt from public disclosure. If you have received this email in error, please notify the City of Miramar immediately by return email.

From: Bartra, Luz M.
Sent: Thursday, June 04, 2015 10:52 AM
To: Barrabi, Joe L.
Cc: Richmond, Natalie A.
Subject: RE: Bid Solicitacion Number

Hi Joe:

Please kindly confirm the solicitation number that the question is for.

Thank you,

Luz M Bartra

Procurement Specialist III | Procurement
City of Miramar | 2200 Civic Center Place, Miramar, FL 33025
Hours: M – Th 7am – 6pm | F - Closed
O: 954.602.3065 | F: 954.602.3631 | lmbartra@miramarfl.gov
Celebrating 60 Years of Beauty & Progress | www.miramarfl.gov



From: Barrabi, Joe L.
Sent: Wednesday, May 27, 2015 2:55 PM
To: Bartra, Luz M.
Subject:

Hello Luz, Maria Suarez gave me you name I am inquiring about city employees doing business with the city. I have a home based embroidery business and I received a bid invitation from the company the city uses for bidding I think it is demand star. In the bid package I see where it states that city employee's must disclose this fact, so I am I allowed to bid city work or not? I have read the city charter and State Statutes and I am not able to find anywhere that I cannot bid work for the city. My business is in the city a local company.

Would you let me know what the status is on this issue.

Thanks

Joe

Joe Barrabi

Chief Mechanical Inspector | Community & Economic Development Department
City of Miramar | 2200 Civic Center Place

Hours: M – Th 7am – 6pm | F - Closed

O: 954.602.3214 | F: 954.602.3635 | jlbarrabi@miramarfl.gov

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Please consider the environment before printing this email.

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OIG 16-006-C

EXHIBIT 3

From: [Richmond, Natalie A.](#)
To: [Cross, Randy M.](#)
Subject: FW: Purchase Inquiry
Attachments: [image001.jpg](#)
[image012.png](#)
[image013.png](#)
[image014.png](#)
[image015.png](#)
[image002.png](#)
[image003.jpg](#)
[image004.jpg](#)
[image005.jpg](#)
[image006.jpg](#)
[image007.jpg](#)
[image008.jpg](#)
[image009.jpg](#)



Natalie Richmond

Procurement Analyst | Procurement Department
City of Miramar | 2200 Civic Center Place
O: 954.602.3196 | narichmond@miramarfl.gov
Hours: M – Th., 7am – 6pm, F – Closed | www.miramarfl.gov
It's Right Here In Miramar... And So Are You!



From: Richmond, Natalie A.
Sent: Wednesday, June 10, 2015 11:37 AM
To: Suarez, Maria
Cc: Bartra, Luz M. ; Cross, Randy M.
Subject: Purchase Inquiry

Hello Maria,

Based on your inquiry for doing business with a City employee's private owned business I sought legal guidance. Please see below a response to your inquiry. I will also further inquire if there are any administrative policies that govern these arrangements.

Question: Can a City department purchase goods or services from a private business that is owned by a City employee that also works in the same department that is making the purchase. Total estimated purchase is less than \$1000.

Answer: Under Section 112.313(12)(k), Fla. Stat., the purchase may be made without violating state law if the total amount of the transactions in the aggregate between the business entity and the City does not exceed \$500 per calendar year. If the amount exceeds (or is anticipated to exceed) \$500 per calendar year, the purchase may only be made if it qualifies for one of the other exemptions provided under Section 112.313(12), Fla. Stat and otherwise complies with the requirements in Section 112.313, Fla. Stat.

NATALIE RICHMOND

Procurement Analyst | Procurement Department
City of Miramar | 2300 Civic Center Place, Miramar, FL 33025
Hours: M – Th 7am – 6pm | F - Closed
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Celebrating 60 Years of Beauty & Progress | www.miramarfl.gov



OIG 16-006-C

EXHIBIT 4



CITY OF MIRAMAR SECONDARY EMPLOYMENT DISCLOSURE

The employment responsibilities to the City of Miramar are primary for any employee working full-time; any other employment in which that person chooses to engage is secondary. Outside employment, enterprise, or business activity is permitted as long as there is no incompatibility or conflict of interest with the employee's City responsibilities.

First Name: Joe Last Name: Barrabi
 Department: Community & economic Development Date: 04/06/2017
 Classification/Title: Chief Mechanical Inspector Supervisor's Name: Pablo Cubeddu

A. No outside employment(check one and sign below):

- I do not have secondary employment I no longer have secondary employment.

Signature of Employee _____ Date _____

B. Outside employment (complete and sign below):

- Yes, I do have secondary employment Yes, I have an update to my secondary employment status which was previously approved.

Employer Name and Address: City of Sweetwater 500 SW 109 Ave Sweetwater, FL 33174
(Indicate if self-employed)

Job title/duties:

Police Officer/ Uniform Patrol
Home based Embroidery Bulsness/ self employed/ embroidery work

Normal work days:

MON TUES WED THURS FRI SAT SUN Variable

Normal work hours:

Anticipated dates of employment: From: 1000 To: 1800

Special circumstances/notes:

Employee Certification:

I will not engage in secondary employment that is or will become a conflict of interest, nor will the time demands or other commitments of any secondary employment interfere with my primary employment. I will devote my full time, attention and effort to the City of Miramar during official duty hours. Specifically, I understand that:

- No secondary employer nor I may be involved in initiating, negotiating, securing, drafting, creating, or entering into a contract with the City.
- I may not use my position with the City to secure anything of value for my secondary employer.
- I may not disclose any confidential City information to my secondary employer.
- I may not use any asset of the City in connection with my secondary employment.
- I may not engage in any activity connected to secondary employment while engaged in my primary employment.
- I agree to submit a new application by January 1 of each year, or within 30 days of a change in secondary employment status. Failure to provide accurate information herein, or to update this information as necessary, or to follow all policies regarding secondary employment, including those items listed above, may be a violation of City policy and/or and could subject me to corrective action up to and including termination of employment.

I hereby swear/affirm that the information above is true and correct.

J. Barrabi
 Signature of Employee

4/6/17
 Date

C: TO BE COMPLETED BY THE DEPARTMENT DIRECTOR (if secondary employment indicated):

- Approval recommended. No interest or time conflicts present.
 Denial recommended. Secondary employment presents a conflict with primary employment.
 Request forwarded for determination by Human Resources.

[Signature]
 Director/Designee Signature

4/10/17
 Date

TO BE COMPLETED BY HUMAN RESOURCES (if secondary employment indicated):

- Request approved.
 Request denied. The secondary employment presents a conflict with primary employment

[Signature]
 Human Resources Director/Designee Signature

5/8/2017
 Date

* Return completed form to the Human Resources

OIG 16-006-C

EXHIBIT 5



CITY OF MIRAMAR SECONDARY EMPLOYMENT DISCLOSURE

The employment responsibilities to the City of Miramar are primary for any employee working full-time; any other employment in which that person chooses to engage is secondary. Outside employment, enterprise, or business activity is permitted as long as there is no incompatibility or conflict of interest with the employee's City responsibilities.

First Name: _____ **Last Name:** _____
Department: _____ **Date:** _____
Classification/Title: _____ **Supervisor's Name:** _____

A. No outside employment(check one and sign below):

I do not have secondary employment I no longer have secondary employment.

Signature of Employee _____
Date

B. Outside employment (complete and sign below):

Yes, I do have secondary employment Yes, I have an update to my secondary employment status which was previously approved.

Employer Name and Address: _____
(Indicate if self-employed)

Job title/duties: _____

Normal work days: MON TUES WED THURS FRI SAT SUN Variable

Normal work hours: _____ Anticipated dates of employment: From: _____ To: _____

Special circumstances/notes: _____

Employee Certification:

I will not engage in secondary employment that is or will become a conflict of interest, nor will the time demands or other commitments of any secondary employment interfere with my primary employment. I will devote my full time, attention and effort to the City of Miramar during official duty hours. Specifically, I understand that:

- No secondary employer nor I may be involved in initiating, negotiating, securing, drafting, creating, or entering into a contract with the City.
- I may not use my position with the City to secure anything of value for my secondary employer.
- I may not disclose any confidential City information to my secondary employer.
- I may not use any asset of the City in connection with my secondary employment.
- I may not engage in any activity connected to secondary employment while engaged in my primary employment.
- I agree to submit a new application by January 1 of each year, or within 30 days of a change in secondary employment status. Failure to provide accurate information herein, or to update this information as necessary, or to follow all policies regarding secondary employment, including those items listed above, may be a violation of City policy and/or and could subject me to corrective action up to and including termination of employment.

I hereby swear/affirm that the information above is true and correct.

Signature of Employee _____
Date

C. TO BE COMPLETED BY THE DEPARTMENT DIRECTOR (if secondary employment indicated):

- Approval recommended. No interest or time conflicts present.
- Denial recommended. Secondary employment presents a conflict with primary employment.
- Request forwarded for determination by Human Resources.

Director/Designee Signature _____
Date

TO BE COMPLETED BY HUMAN RESOURCES (if secondary employment indicated):

- Request approved.
- Request denied. The secondary employment presents a conflict with primary employment

Human Resources Director/Designee Signature _____
Date

OIG 16-006-C

APPENDIX 1



WEISS SEROTA HELFMAN COLE & BIERMAN

AT THE CROSSROADS OF BUSINESS, GOVERNMENT & THE LAW

ALISON F. SMITH, ESQ.
ASMITH@WSH-LAW.COM

July 29, 2019

VIA U.S. Mail

Mr. John W. Scott
Inspector General
Broward Office of the Inspector General
One North University Drive, Suite 111
Plantation, FL 33324

Subject: City of Miramar's Response to Broward Office of Inspector General
("OIG") Preliminary Report No. 16-006-6-C

Dear Mr. Scott:

The City of Miramar ("City") has reviewed the Broward Office of the Inspector General's Preliminary Report dated June 28, 2019, (the "OIG Report") and hereby provides this response in accordance with Section 12.01(D)(2)(a) of the Broward County Charter.

OVERVIEW

The bulk of the OIG report addresses employee misconduct who sold goods or services to his agency in violation of state ethics laws. As part of the investigation into purchases by the employee, the Report identifies issues in the city's administrative and procurement warranting the agency's attention.

As to the alleged employee misconduct, the City agrees that as a general rule enumerated in state ethics code, employees are prohibited from doing business with their agencies, as this is considered conflicting employee or entering into prohibited contractual relationships. However, the City disagrees that the misconduct described in the Report is a per se violation of state law due to the many complexities and exceptions delineated in the relevant sections of the state ethics statute.

As to the finding that the City operated outside its purchasing card (“p-card”) policy by foregoing a layer of review when it amended its p-card policies which could have identified and/or prevented the employee misconduct identified in the Report, the City take exception to this conclusion. The implication is that the revised p-card policy was less strict than the original policy, and had initial policy remained in effect, the purchases in questions could have been prevented.

As to the finding that the city did not follow its policy requiring annual disclosure and approval of secondary employment, the City agrees that monitoring and enforcement of this policy should be a higher priority and the City has taken steps to shore up the policy by revising the form and has commenced an educational campaign for the workforce about secondary employment.

As to the finding local businesses are conducting business in the City prior to paying the business tax or before renewing their license is a matter which the City will address going forward. Although the City ordinance mandates that business shall not engage or manage any business, profession or occupation in the city until after obtaining such a receipt, this requirement is not mentioned on the application that must be completed by an individual or entity seeking to do business within the City. The applications will be revised to include such information and city resources will be take necessary measures to ensure that new or existing business are not operating within the City unless their business taxes are paid and will consider formalizing additional sanctions against delinquent businesses.

Finding #1: City Employee Doing Business with His Agency

City Response to Finding #1

The City has no reason to question the timeline provided by the OIG or the purchase amounts, nor does the City dispute the fact that a company owned and operated by a city employee obtained business from the City on ten separate occasions. In nine of the ten transactions, the contracting department was the department employing Mr. Barrabi and the p-card was the method by which payment was made to the business in all ten transactions.

Although the facts support the OIG finding that Barrabi was doing business with his own agency in violation of Florida ethics law, he recognized that such a relationship could create a conflict of interest and he did solicit input from the City. The City did in fact provide him with accurate advice by indicating to him that such transactions were

potentially problematic and that transactions between his agency (the Department of Community and Economic Development) and All American Logo were capped at \$500 for the calendar year.

The Department sets the credit limit for each Cardholder, but there is no evidence set forth in the Report that the All American Logo purchases exceeded the Cardholder's spending authority under the p-card program. Another consideration is that the only transaction in excess of \$500 was not with Barrabi's department and was initiated prior to his request for an ethics opinion on this subject. Moreover, it appears from the Report that Barrabi was confused about the \$500 limit imposed by state law and interpreted this to mean that as long as no one transaction with All American Log exceeded the threshold, he was acting in accordance with state law. Barrabi also had some doubt as to whether he was a covered individual because he did not understand that he met the statutory definition of a public officer for purposes of Chapter 112, Part III of the Florida Statutes.

Given the intricacies of the Florida ethics code, particularly FS 112.313(3) and (7) dealing with business transactions and relationships between public officials, their agencies and private entities which they or their family members may own, training to explain and reinforce these rules and standards is particularly important. Although the City Code explicitly states that its officials and employees are bound by the provisions of state ethics law, this reference alone is not sufficient to adequately educate employees as to their ethical responsibilities as city employees. Moreover, Article XIV of the City Code spells out other circumstances in which conflicts of interest may occur, but does not specifically address the limitations on employees transacting business with the City. The City also has personnel rules and regulations which cite ethics rules and standards, but employee transactions in one's private capacity are not covered in the manual.

In light of the OIG's investigation, the City embarked on ethics training for its employees in 2017, spearheaded by the City's former procurement director and the City Attorney's Office. Initially, ethics training sessions were held with department directors and managerial personnel. Ethics workshops for rank-and-file employees have been held as well in the commission chambers and more will be scheduled in the future to reach all employees. Additionally, the City contracted with Florida International University in 2018 to provide training for all city supervisors, and one of the four hour sessions is dedicated to ethics. In the ethics workshops run by the City

and those conducted by FIU, the subject of employees doing business with the City is a major topic of discussion.

Finding #2: City Failed to Follow Purchasing Card Policy by Removing a Layer of Review

City Response to Finding #2

It is important to understand the purposes of a p-card system for purchases, is not unique to the City of Miramar and has been the subject of other OIG reports. The City's program is designed to improve efficiency in streamlining traditional methods of procurement and payment to make small value purchases. P-cards reduce the need for purchase orders, expedite purchases, enhance productivity and reduce the overall cost associated with purchases. (See purpose of P-Card Policy) In part, the P-Card Program came about after a study conducted by an external consultant found that reviewing all City purchase orders in 2010, approximately two-thirds were for purchases less than \$1,000. Currently, approximately 155 employees have access to p-cards and there are roughly 800-1000 p-cards purchases on a monthly basis. The City tasks four employees to audit and examine p-card purchases (they are known as program administrators) and these p-card duties are ancillary to their other responsibilities with the City. The City regularly suspends cardholders for using their p-cards when a breach of policy occurs. Both the 2012 and 2018 policies place the responsibility on the department directors to identify prohibited uses of p-cards. The focus of the program administrators tends to be on purchase splitting and ensuring that Cardholders are not exceeding their limits. It should be noted that department directors establish the limit for each usage and no cardholder may purchase goods and services totaling more than \$1000 in a single purchase. In addition, there are monthly limits set by the department directors. Both the one-time purchase limit and the monthly limit varies from employee to employee and can be adjusted accordingly.

The City is committed to efficiency, accountability and transparency when procuring goods and services (regardless of the amount of the transaction) and recognizes its obligations to issue a p-card policy that contains sufficient controls to safeguard against abuses. The City objects to the assertion that by ignoring, and then eliminating, the preauthorization component, it allowed for vulnerabilities to enter the system. It is unclear from the report whether the vulnerability of greatest concern to the OIG is the situation involving Mr. Barrabi or exposure to other vulnerabilities not identified in the report.

First and foremost, the City did not eliminate the preauthorization component from its policy when it amended the 2012 policy. The initial policy put the onus on the cardholder to provide an approved preauthorized/usage form to the Department Supervisor/Coordinator. The 2018 policy shifted responsibility to the Department p-card supervisor, requiring the supervisor to approve submitted transactions with preauthorization form and sales receipts. Although there are some city departments that have bypassed pre-authorization before making a p-card purchase, some of the larger city departments still use it.

As a general proposition, preauthorization hampers efficiency by having the purchase approved prior to the transactions, and once again, after the transaction is completed. This creates unnecessary redundancy and does not operate as an effective control. The potential to capture some forms of misuse by an employee occurs soon after the purchases are made when the Department Director reviews the purchase with the accompanying forms and receipts. The City understand that there may be some value associated with preauthorizing pre-card purchases, but the general consensus is it is an unnecessary step in the process and will not serve the purpose of screening out possible p-card abuse.

If the OIG is claiming the preauthorization provision would have operated to expose the actions of Jose Barrabi and the purchases from All American Logo, such a finding is illogical and not supported by the procedures that are currently in effect. In order for the City to question or void such purchases, the City would have to know the connection between Mr. Barrabi and All American Logo and such information could not have been gleaned from a preauthorization process.

The City disagrees with the conclusion that it substantially revised the policy in 2018, with the inference being the City relaxed some of the standards associated with the p-card program. The two policies are virtually identical. The new policy adds a coding section, spells out in greater detail disciplinary action for those who are not acting in compliance with the policy, rearranges some of the responsibilities for those who are part of the policy, but the new policy essentially mirrors the original policy. The City takes exception to the conclusion that the 2018 is more lenient. To the contrary, the area of greatest concern, order splitting is further refined in the 2018 policy and considers the placement of multiple orders within 14 days to the same vendor for the same, like or related goods or services, as suspicious. The original policy, although it

prohibited order splitting to circumvent the caps, did not establish the stricter controls appearing in the 2018 policy.

Finally, the City is considering reducing the number of p-card holders, not due to concerns related to employee misuse or fraud, but for managerial purposes. The City has uncovered duplicate purchases by different p-card users, not as part of a fraudulent scheme, but rather where one employee is unaware of purchases by another employee for the same goods or services.

Finding #3: City Failed to Retain or Produce Secondary Employment Forms

City's Response to Finding #3

The City acknowledges that it requires all full-time employee to disclose secondary employment must be and such employment must approved by department directors on an annual basis. The commitment to report and obtain approval for secondary employment was reinforced by the December 2017 correspondence from the City to the departments.

There are three potential issues associated with secondary employment. The first is for City employees to realize that any type of outside employment must be reported. Secondly, employees must understand that secondary employment must be approved every year the employee has engaged in outside employment and must be filed even when the employee's outside employment activities have remained the same from year-to-year. Finally, the process for engaging in outside employment is complete only when approval is given, indicated by the signatures from the department director and human resources. Forms lacking such signatures are not complete.

As noted in the Report, the secondary employment form was revised at some point between 2013 and 2017. (See Exhibits 1 and 5 of the OIG Report). It appears from examining the forms for these years, the employee certification section was expanded after 2013 to require employees to submit a new application by January 1 of each year or within 30 days of a change in secondary employment. Neither forms contains within the employee certification section that the employee is barred from engaging in outside employment with the City. The City is in the process of further revisions to the secondary employment form to include a statement whereby the employee certifies he or she will not be engaged in any secondary employment activities which entails transacting business with the City.

Given the importance of compliance with the City's secondary employment policies, there is an emphasis placed on outside/secondary employment in the ethics workshops described above which eventually all employees will attend. This topic is also highlighted in the ethics seminar conducted by FIU for City supervisors. Finally, the Human Resources Department will press the departments to ensure that the departments stress the significance of full compliance with the secondary employment policy and the consequences for employees who fail to comply.

Finding #4: The City Has No Process to Ensure Local Business Pay Business Taxes Prior to Conducting Business within the City.

City's Response to Finding #4

The City concedes that the City Code requires all businesses operating within the City to have a business tax receipt. Moreover, this provision requires local businesses before engaging in any business with the city to have a valid business tax receipt which should not be issued to a local business if taxes are not paid by September 30. The City also accepts the proposition that achieving the status of a Miramar local business may create an advantage for a business considering doing business with the City.

The City mails questionnaires to all active businesses to obtain updated information and sends tax renewal notices to all active business. The City estimates the number of local business tax receipts is in excess of 3,000 per year. Of the 3,000 renewals for 2019, there were roughly 135 businesses deemed delinquent. If a business does not make a payment by the statutory deadline, the business is billed a late fee month. Delinquent businesses are referred to Code Enforcement. In some of the more egregious cases, hearings are set before a Special Magistrate to address delinquencies.

It should be incumbent on all businesses located in the City to pay its taxes in a timely manner or face sanctions for failing to pay on time. Although the responsibility rests with businesses to pay their taxes before receipts can be granted or renewed, the City will consider other methods to inform the local business community of its obligations to pay its taxes by the deadline. In reviewing the Business Tax Receipts applications (and there are several depending on the type of business to be located within the City), the applications do not mention the statutory requirement to pay the taxes prior to the deadline in order to continue to operate within the City with an active business tax receipt.

Mr. John W. Scott
July 29, 2019
Page 8

The City acknowledges that it must expend resources to ensure that local businesses are not delinquent with respect to the taxes owed to the City and those delinquent business should be cited accordingly. The Finance Department has requested its own field officer to handle business tax receipt collections, and as stated above, utilizes Code Enforcement Officers at the present time. It is beyond the scope of this response to determine at this juncture other concerted efforts to undertake to force local businesses into compliance with the City Code.

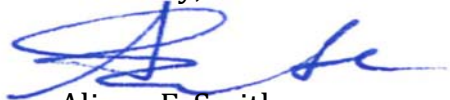
CONCLUSION

The City appreciates the opportunity to address the concerns identified in this preliminary report. The response in part is to demonstrate to the OIG that the City has already taken measures to alleviate some of issues reported by the OIG and will continue to monitor these problematic areas and further develop policies and regulations to ensure City employees and its processes are consistent with state and local ethics laws.

As stated in the response, the City sees education and outreach as a key component to achieving compliance with the laws and rules cited in the report. The City also recognizes it may need to promulgate new rules or policies and commit additional resources to enforcement, particularly as it relates to the collection of delinquent taxes.

As you can see, the City has attempted to be responsive to the situation and has initiated reforms prior to release of this preliminary report. Finally, the City thanks the OIG for bringing these matters to the City's attention.

Sincerely,



Alison F. Smith

cc: Carol "Jodie" Breece (via email)
Robert Meyers, Esq. (via email)

OIG 16-006-C

APPENDIX 2

July 26, 2019

John W. Scott, Inspector General
Broward Office of the Inspector General
1 North University Drive
Suite 111
Plantation, FL 33324

VIA E-MAIL: InspectorGeneral@Broward.org

RE: OIG Preliminary Report, Ref. No. OIG 16-006-C

Dear Inspector General:

Please consider this as my written response to the findings of the Preliminary Report dated June 28, 2019. The Report found that as a City of Miramar employee, I engaged in misconduct by doing business with my own agency. Florida Statute 112.313 establishes the standards of conduct for public employees of agencies. Pursuant to section 112.313(3) and (7), a city employee, such as myself, is precluded from doing business with one's own agency or having a contractual relation with any business entity where there is a conflict of interest; however section 112.313(12) provides exceptions to those rules. It was my understanding that I acted in accordance with the standards of conduct and that the exceptions under 112.313(12), Fla. Stat., applied to me and my situation.

Accordingly, I should not be held in violation of section 112.313(3) or (7) if the business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and (1) employee or employee's spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder; (2) the employee or employee's spouse or child has in no way used or attempted to use the employee's influence to persuade the agency or any personnel thereof to enter such a contract other than by the mere submission of the bid; and (3) the employee, prior to or at the time of the submission of the bid, has filed a statement with the Commission on Ethics disclosing the employee's interest, or the interest of the employee's spouse or child, and the nature of the intended business.

I am a solo proprietor doing business as All American Logo, a Florida registered fictitious name; my business interest is not incompatible nor does it conflict with my responsibilities as a city employee. Between 2015 and 2016, All American Logo was a vendor for the City of Miramar and provided customized embroidered products. To my knowledge the City properly awarded All American Logo the business during said timeframe, I nor any member of my family was involved in the decision making process of the bid system or compromised the integrity of the bid system, and my employer was aware of my interest in All American Logo.

Furthermore, page 5 of the Preliminary Report cites chapter 4.33.1 of the City of Miramar Administrative Policy Directives and Procedures Manual which was issued on December 6, 2017; 2017 is outside the scope of the allegations against me and the policy was not intended to be applied retroactively. Even if chapter 4.33.1 applied to this situation, the Secondary Employment

Disclosure form is to be completed on a yearly basis or when there is a *change* (emphasis added) in secondary employment status. On April 29, 2013, I completed a Secondary Employment Disclosure form which disclosed my “home based embroidery business” and submitted the form to Human Resources. Human Resources never informed me of a conflict due to my business, the City never requested I terminate or discontinue secondary employment, nor has the City ever notified me that I was in violation of the secondary employment policy. I was unaware of any requirement to provide an annual update and the form only stated that “[f]ailure to provide accurate information herein, or to *update* (emphasis added) this information as necessary...may be a violation of City policy...” When I submitted a bid package on or about June 15, 2015; although I mistakenly used the wrong form, I did disclose that I was a city employee; I was not awarded that bid. In 2017, when the Secondary Employment Disclosure form was updated, only then did the form specifically state, “I agree to submit a new application by January 1 of each year or within 30 days of a change in secondary employment status.” On April 6, 2017, I completed the updated disclosure form and listed “home based embroidery business/self-employed embroidery work.” The Department Director and Human Resources approved of my secondary employment due to no conflict of interest with the primary employment.

I acknowledge that I did not follow the correct procedures or use the correct forms, but I did not willfully or maliciously violate State Law, City Ordinances, or Administrative Policies. My involvement with All American Logo never interfered with the full and faithful discharge of my employment duties; the preliminary report shows no findings that I was ever derelict in my duties or engaged in any quid pro quo relationship with the City or other employees. In fact, the preliminary report “identified deficiencies in the city’s administrative and procurement processes.” Those same deficiencies resulted in miscommunication and misguidance that I relied on to my detriment. In agreement with the preliminary report, [I] had no procurement or purchasing authority, never participated in a vendor selection or evaluation process, and was not familiar with the city’s procurement policy.” When the policy changed in 2017, I submitted the revised Secondary Employment Disclosure form and since then I have complied with the annual disclosure requirement, whether or not there is a change in circumstances. I respectfully request that the Florida Commission on Ethics and OIG’s final report concludes that as a public employee, I did not engage in any abuse of trust, misuse my position, or knowingly violate the Sunshine Amendment or the Code of Ethics; a penalty should not be recommended.

Sincerely,



Jose Barrabi, Chief Mechanical Inspector
Community & Economic Development Dept.
Building Division
City of Miramar
2300 Civic Center Place
Miramar, FL 33025
Office: 954-602-3214
Email: jlbarrabi@miramarfl.gov