

October 31, 2006

John Dixon
Metro-Miami Action Plan
19 West Flagler
M-106
Miami, FL 33130

RE: RQO 06-52

Dear Mr. Dixon:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 30, 2006 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether the Metro-Miami Action Plan (MMAP) may award a training contract to the Florida Martin Luther King Institute for Non-Violence. The Chairperson of MMAP serves as Executive Director of the Florida Martin Luther King Institute for Non-Violence ("Institute").

In your request, you advised the Commission that the Florida Martin Luther King Institute for Non-Violence is a private non-profit organization that provides training for various groups including police departments, youth organizations and local governments on non-violent alternatives to resolving disputes. Although MMAP was involved in the creation of the Institute, the Institute is a separate organization and does not receive budgetary or staffing support from MMAP.

The MLK Leadership Academy is a MMAP program that provides academic and social training to middle-school aged students. The program also includes a component on non-violent dispute resolution techniques. MMAP would like to contract with the Institute to provide this

training. If they are awarded the contract, the Institute will receive an administrative fee.

The Commission found the Conflict of Interest and Code of Ethics ordinance permits MMAP to contract with the Institute to provide training for the MLK Academy. However, the Chairperson is prohibited from voting on any matter involving the MLK Leadership Academy and may not receive any salary or compensation from the Institute from any funds provided under the MMAP contract. Section 2-11.1(d) provides that no employee " shall enter into any contract or transact any business through a firm, corporation, partnership or business entity in which he or she or any member of his or her immediate family has a controlling financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable. The ordinance defines controlling financial interest as ten percent or more of the capital stock in a business entity. The Ethics Commission has previously opined that Section 2-11.1(d)'s restriction on contracting does not extend to contracts between the county and non-profit organizations. Therefore MMAP may contract with the Institute to provide services.

However, Section 2-11.1 (v) prohibits board members from voting on matters where they serve as an employee of the entity seeking action from the county entity. Section 2-11.1(v) provides that no board member "shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director,

partner, of counsel, consultant, employee, fiduciary, or beneficiary; or (ii) stockholder, bondholder, debtor or creditor.”¹ Since Mr. Jones serves as Executive Director of the Institute, he may not vote on any matter involving the academy.

Section 2-11.1(k)(1) provides that “ no person shall receive any compensation for his or her services as an officer or employee of the County from any source other than the county except as may be permitted by Section 2-11 of the Code of Ordinances.” Therefore, the Executive Director may not be paid by the Institute to administer a program for MMAP.

Accordingly, MMAP may contract with the Institute to provide services for the MLK Leadership Academy. However, the Executive Director may not vote on any matter regarding the Institute or receive any salary or compensation from MMAP funds provided for the training.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS
Executive Director

¹ Mr. Jones is still bound by this provision although he is an employee on loan from the Miami-Dade Police Department.

