

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, November 26, 2018 10:01 AM
To: Sanchez, Rodzandra (COE)
Subject: INQ 18-250, Carla Valle-Schwenk, Program Administrator, Miami-Dade Office of Budget and Management (Gifts)
Attachments: INQ 18-250 Valle-Schwenk.pdf

INQ 18-250 Valle-Schwenk

From: Arrojo, Jose (COE)
Sent: Wednesday, November 21, 2018 11:50 AM
To: Valle-Schwenk, Carla J. (OMB) <Carla.ValleSchwenk@miamidade.gov>
Cc: Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Ross, Rachele (COE) <Rachele.Ross@miamidade.gov>; Sanchez, Rodzandra (COE) <Rodzandra.Sanchez@miamidade.gov>
Subject: INQ 18-250gifts

Dear Ms. Valle-Schwenk:

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding free event tickets.

Attached is our opinion regarding the same.

Best regards,

Jose J. Arrojo

Executive Director
Miami-Dade Commission on Ethics and Public Trust
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MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

19 West Flagler Street, Suite 820 · Miami, Florida 33130
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Website: ethics.miamidade.gov

MEMORANDUM

TO: Carla Valle-Schwenk, Program Administrator
Office of Management and Budget (OMB)
Grants Coordination/Ryan White Program

FROM: Jose J. Arrojo, Executive Director
Commission on Ethics

SUBJECT: INQ 18- 250, AIDS Healthcare Foundation, PAMM Event, Free Tickets,
Section 2-11.1 (e), Gifts

DATE: November 21, 2018

CC: Commission on Ethics Advocate and Staff Attorneys

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust regarding an offer of free tickets to the AIDS Healthcare Foundation's World AIDS Day, cocktail, performance, and film screening event to be held at the Perez Art Museum of Miami-Dade County (PAMM).

Facts: The AIDS Healthcare Foundation (AHF) is a global nonprofit that provides medical and support services, advocacy and education for persons with AIDS, their families and other at-risk groups. AHF provides health care to residents of Miami-Dade County and receives pass-through federal funding from OMB's Grants Coordination/Ryan White Program. AHF is a County contracted agency, and it is specifically contracted by OMB.

AHF has offered ten (10) free tickets to a World AIDS Day event to be held at the PAMM. The event is comprised of a cocktail reception and will include performing artists, art exhibits, and the premier of a film documentary narrated by actress Meryl Streep.

Issue: May OMB accept free event tickets for its staff from AHF, a County contracted agency, that is specifically contracted by OMB.

Discussion: The Miami-Dade Conflict of Interest and Code of Ethics Ordinance allows County employees to accept gifts if not in exchange for an official act or for the failure to perform an

official act. The gift, defined as the transfer of anything of economic value whether in the form of money, or service, must be reported by the employee if it has value more than one hundred dollars.

To restate, as regards *quid pro quo* gifts, Section 2-11.1(e) (3), of the Ethics Code specifically prohibits an employee from accepting a gift as consideration for performance or non-performance of an official act.

The tickets to the AHF World AIDS Day event at the PAMM clearly have an economic value and would constitute a gift to the OMB employees. OMB *could* accept the free tickets and its employees report them as a gift.

However, the Commission on Ethics has found that the acceptance of gratuities by County employees can create an appearance of impropriety. (*See* RQO 07-61; INQ 18-246) In this case, because the tickets to a cocktail reception and performance event are being provided by an agency that is contracted and receives funding through OMB, the appearance of impropriety is heightened.

Some County departments, aside from the restrictions found in the Ethics Code, have enacted a strict “no gift” policy. Employees working in these departments may not accept any gift of any value from any person or firm doing business with the County or seeking to do business with the County. Also, the Commission has suggested that gratuities are better distributed to lesser advantaged persons or groups. For example, County Mayor Carlos Gimenez was recently gifted free tickets for youths to attend a circus event at a Miami-Dade County facility and declined to accept them, instead he donated them to families served by the Boys and Girls Club of Miami. He did the same with tickets to a Christmas event at a county park, giving the tickets to several organizations that support lesser advantaged families.

Free tickets to the AHF World AIDS Day cocktail and performance event at the PAMM could similarly be distributed, with the sponsor’s agreement, to lesser advantaged persons living with HIV or AIDS or impacted in some manner by the disease.

Opinion: AHF is a currently an OMB contracted agency. OMB could accept free tickets to an AHF sponsored cocktail and performance event to be held at the PAMM and distribute them to employees who would then have to disclose them as gifts. However, because of AHF’s relationship to OMB and prior Commission on Ethic’s opinions regarding the appearance of impropriety, it is suggested that tickets should not be given to OMB employees and should be distributed, if acceptable to the sponsor, to lesser advantaged persons.

This opinion is limited to the facts as presented to the Commission on Ethics or otherwise publicly known. The opinion is limited to an interpretation of the County Ethics Code only

and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.