



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Elizabeth Regalado, Executive Director
Domestic Violence Oversight Board, Office of Community Advocacy

FROM: Martha D. Perez, General Counsel
Commission on Ethics & Public Trust

SUBJECT: INQ 20- 55 [Gifts, §2-11.1(e)]

DATE: June 8, 2020

CC: COE Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance on the acceptance (and solicitation) of donations in a proposed trust fund of the Miami-Dade County Domestic Violence Oversight Board (DVOB).

Background

The DVOB is an advisory board comprised of fifteen members.¹ This board was created in 1994 (Ordinance 94-156) to develop and submit to the Board of County Commissioners (BCC) a comprehensive plan for the use of the 15% local food and beverage tax proceeds, for the construction and operation of domestic violence centers. *See* Section 212.036, Fla. Stats. The board advises the BCC on all matters which affect or relate to domestic violence.

Last year, the board's administrative jurisdiction was moved from the Homeless Trust (as designated by the Mayor) to the Office of Community Advocacy (OCA).² *See* Ordinance 19-81

The DVOB intends to present a resolution to the BCC authorizing the establishment of a trust fund to accept donations/ contributions for the support, education and awareness of domestic and intimate partner violence.³

¹ Thirteen of which are appointed by each County Commissioner and two appointed by the Office of the Mayor (historically, the latter have been selected from the Police Department and the State Attorney's Office).

² OCA reports directly to the Board of County Commissioners.

³ Trust funds are generally established via resolutions describing a clear County purpose, including mission, oversight and management responsibilities.

Analysis

The County Ethics Code at Sec. 2-11.1 (e)(2)(e) allows County employees and departmental personnel to solicit gifts on behalf of the County for use solely by the County in conducting its official business. *See also* RQO 06-05 (employees may solicit gifts for a foundation because they will be used to conduct official County business); INQ 18-31 (gifts provided for the sole use and benefit of the County are generally exempt from the County gift ordinance).⁴

Consequently, there is no blanket prohibition that would disallow the establishment of a trust fund for a clearly stated public purpose. *See* INQ 13-70; INQ 17-203; INQ 17-268

However, those involved in such solicitations (or receipt) of donations/contributions need to be mindful of the conditions imposed against directly soliciting or targeting donors who are County vendors, contractors or lobbyists. While such persons may be included in general solicitations, they should never be directly solicited by an official or employee so as to avoid any perception that a requested donation could affect a recommendation made by the DVOB to the BCC or a decision of the BCC. *See* RQO 06-05; INQ 13-70; INQ 18-89; INQ 18-193

Conclusion

The County Ethics Code does not prohibit the DVOB from establishing a trust fund to educate and promote awareness of domestic violence because such efforts clearly establish a public purpose. Specifically, the prohibitions in the Gift ordinance at Section 2-11.1(e) do not apply to gifts (donations, contributions) solicited on behalf of the County (agency) by County employees and departmental personnel performing their official County duties provided such solicitation(s) are used solely by the County in the conduct of official business.

This opinion is limited to the facts as you presented them to the COE and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state law, legal aspects, fiscal impact, oversight or management of the trust fund. 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.

⁴ Interestingly, RQO 98-29, prohibiting solicitations to a County department trust fund, was nullified in 1999 in amendments made to Section 2-11.1(e) specifically allowing employees to solicit donations in the performance of their official duties on behalf of the County for use by the County.