

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, May 23, 2018 4:11 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: Julian Manduley, IT Contracts & Procurement Manager, Miami-Dade Information Technology Department (Gifts) INQ 18-124
Attachments: Microsoft Credit document.pdf

INQ 18-124 Manduley

From: Diaz-Greco, Gilma M. (COE)
Sent: Wednesday, May 23, 2018 3:17 PM
To: Manduley, Julian R. (ITD) <Julian.Manduley@miamidade.gov>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Perez, Martha D. (COE) <Martha.Perez2@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Julian Manduley, IT Contracts & Procurement Manager, Miami-Dade Information Technology Department (Gifts) INQ 18-124

Mr. Manduley:

You asked whether the County Ethics Code would prohibit the County from accepting a one time “Monetary Commitment Credit (“Credit”) from Microsoft Azure (“Azure”) through Insight Public Sector Inc. (“Insight”), a County vendor that is a reseller of Microsoft services.

Background

Microsoft Azure Services are sold through resellers such as Insight. Microsoft Azure is a cloud computing service created by Microsoft for building, testing, deploying, and managing applications and services through a global network of Microsoft-managed data centers. It provides software, platform, and infrastructure services to subscribers and supports many different programming languages, tools and frameworks, including Microsoft-specific and third-party software and systems.

Pursuant to a competitive bid process, the County entered into a 3-year agreement with Insight for Microsoft cloud computing services including Azure. The County pays Insight on a yearly basis for the computing services used. The County is entering the 2nd year of the contract with Insight. The County’s Information Technology Department (“ITD”) would like to run several “Proof of Concepts” (“POC’s”) to test whether certain County functions, not currently operating in Azure, would run more effectively in Azure before committing to pay Azure to run these functions. In an amendment to the existing contract, Microsoft is offering to grant the County, under its contract with Insight, 950 credits, valued at \$95,000.00 as “gratuitous services” to test these POCs on Azure.

The credits would not benefit any County official or employee, they would be used exclusively for County business by providing extra cloud computing service time to POC’s related to County computer applications being developed by ITD.

Legal analysis

Section 2-11.1(e) generally prohibits the acceptance or solicitation of gifts given or received in exchange for official actions of County employees or officials (*quid pro quo* activity). However, Section (e)(2)(e) includes an exception that permits the solicitation of gifts by County employees or departmental personnel on behalf of the County in the

performance of their official duties for use solely by the County in conducting its official business. *See also* RQO 05-119 (Gifts to a local governmental entity for a public purpose are not prohibited, as long as no *quid pro quo* activity takes place or is anticipated in the transaction.)

County Ethics Code Section 2-11.1(e)(2)(e), which provides exceptions to the gift ordinance, states:

(2) Exceptions. The provisions of subsection (e)(1) shall not apply to:

e. Gifts solicited by County employees or departmental personnel on behalf of the County in the performance of their official duties for use solely by the County in conducting its official business;

Consequently, Microsoft's donation of 950 Azure Services credits to the County, provided that no *quid pro quo* activity takes place or is anticipated in the transaction, does not violate the County Ethics Code because the gift of the credits is solicited within ITD's performance of its official duties and will be used by the County in performing its official business.

Please contact me if you have any additional questions.

Sincerely,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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From: Manduley, Julian R. (ITD)
Sent: Monday, May 21, 2018 3:57 PM
To: Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>
Cc: Mederos, Jorge E. (ITD) <jorge.mederos@miamidade.gov>
Subject: Microsoft Azure

Hi Gilma:

Per our conversation, the following is the information that you requested.

The County currently has a contract to purchase Microsoft products and cloud services through Insight Public Sector Inc. This contract was awarded through a competitive process for a three year term.

Year 1 of the Cloud (Azure) services had an effective date of June 1, 2017. Microsoft through Insight, is offering the County Azure credits for the County to test infrastructure services in Azure. The value of the credits is \$95,000.00.

Thank you so much for all your help.

Julian R. Manduley, C.P.M.

IT Contracts & Procurement Manager
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Delivering Excellence Every Day

Visit our website at: www.miamidade.gov/itd

Miami-Dade County is a public entity subject to Chapter 119 of the Florida Statutes concerning public records. E-mail messages are covered under such laws and are subject to disclosure.

Amendment to Contract Documents

Enrollment Number

91925202

000-elroga-S-148

This amendment ("Amendment") is entered into between the parties identified on the attached program signature form. It amends the Enrollment or Agreement identified above. All terms used but not defined in this Amendment will have the same meanings provided in that Enrollment or Agreement.

Enterprise Enrollment Azure Monetary Commitment Adjustment Amendment ID M464

The parties agree that the Enrollment is amended by adding the following new section:

In connection with a subscription to the Microsoft Azure Services under the Enrollment, Enrolled Affiliate will receive from Microsoft or Enrolled Affiliate's Reseller a one-time Monetary Commitment credit ("Credit") in the amount set forth in row "Credit".

Azure Monetary Commitment Adjustment

License Type	Part Number	Name of Product	Unit of Measure	Unit Quantity	License Quantity
Credit	AAA-35522	Az Azure Monetary Commitment Credit Pilot Global	Upfront	1	950

The Credit represents an amount equal to the "License Quantity" Multiplied by "Unit Quantity" Multiplied by "Net Unit Price". The Net Unit Price is provided by the Enrolled Affiliate's Reseller.

Microsoft will provide the Enrolled Affiliate's Reseller with the Credit to apply to the Enrolled Affiliate's Azure Enterprise Portal. The Credit will expire at the next enrollment anniversary date. Upon expiration, any unused portion of the Credits, if any, will be forfeited.

The Credit may only be used for eligible Microsoft Azure Services or Azure Government Services (depending on which has been ordered under this Enrollment), as defined in the Online Services Terms.

Microsoft intends that the grant of Credit and the Azure Services consumed follow applicable laws and regulations with respect to gratuitous services. It is specifically understood that Credit is for the sole benefit and use of Enrolled Affiliate and is not provided for the personal use or benefit of any individual employee of Enrolled Affiliate or Enrolled Affiliate's Reseller.

The Credit is a one-time offer. Microsoft is under no obligation to repeat this offer.

Except for changes made by this Amendment, the Enrollment or Agreement identified above remains unchanged and in full force and effect. If there is any conflict between any provision in this Amendment and any provision in the Enrollment or Agreement identified above, this Amendment shall control.

This Amendment must be attached to a signature form to be valid.

Microsoft Internal Use Only:

(M464)EnrAmend(AzureMonetaryCommitmentAdjustment)(WW)(ENG)(Jan2018)(IU).docx		M464	B
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Program Signature Form

MBA/MBSA number		000-elroga-S-148
Agreement number	01E73939	

Note: Enter the applicable active numbers associated with the documents below. Microsoft requires the associated active number be indicated here, or listed below as new.

For the purposes of this form, "Customer" can mean the signing entity, Enrolled Affiliate, Government Partner, Institution, or other party entering into a volume licensing program agreement.

This signature form and all contract documents identified in the table below are entered into between the Customer and the Microsoft Affiliate signing, as of the effective date identified below.

Contract Document	Number or Code
<Choose Agreement>	
<Choose Enrollment/Registration>	
Amendment to Contract Documents	M464 / 91925202

By signing below, Customer and the Microsoft Affiliate agree that both parties (1) have received, read and understand the above contract documents, including any websites or documents incorporated by reference and any amendments and (2) agree to be bound by the terms of all such documents.

Customer
Name of Entity (must be legal entity name)* Miami-Dade County
Signature* _____
Printed First and Last Name*
Printed Title
Signature Date*
Tax ID

* indicates required field

Microsoft Affiliate
Microsoft Corporation
Signature _____ Printed First and Last Name Printed Title Signature Date (date Microsoft Affiliate countersigns)
Agreement Effective Date (may be different than Microsoft's signature date)

Optional 2nd Customer signature or Outsourcer signature (if applicable)

Customer
Name of Entity (must be legal entity name)* Signature* _____ Printed First and Last Name* Printed Title Signature Date*

** indicates required field*

Outsourcer
Name of Entity (must be legal entity name)* Signature* _____ Printed First and Last Name* Printed Title Signature Date*

** indicates required field*

If Customer requires physical media, additional contacts, or is reporting multiple previous Enrollments, include the appropriate form(s) with this signature form.

After this signature form is signed by the Customer, send it and the Contract Documents to Customer's channel partner or Microsoft account manager, who must submit them to the following address. When the signature form is fully executed by Microsoft, Customer will receive a confirmation copy.

Microsoft Corporation
 Dept. 551, Volume Licensing
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 Reno, Nevada 89511-1137
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