



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Thomas B. Davis, Esq., Executive Director
Policy and Legislation Division, Office of the Commission Auditor

Victoria Mallette, Executive Director,
Homeless Trust

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 19-80 [Voting Conflict of Interest § 2-11.1(v); Appearances of
Impropriety; Reverse Two-year Rule § 2-11.1(x)]

DATE: August 27, 2019

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the following proposed transaction.

Facts: We have reviewed your memorandum dated August 5, 2019, prepared in connection with the Appointment of Selection Committee for Miami-Dade County Homeless Trust's Request for Applications (RFA) for the 2019 NOFA Collaborative Application. The memorandum was prepared in connection with Resolution No. R-449-14, directing the Office of the Commission Auditor (OCA) to conduct background checks on members serving on evaluation/selection committees.

The memorandum noted that the OCA conducted a background research check through Westlaw which showed that Manny Sarria, a voting member of this selection committee, is an Administrator for Citrus Health Network, Inc. (hereinafter "Citrus"). Citrus is a respondent on this RFA.

We have conferred with Mr. Sarria. He stated that he is the Assistant Executive Director of the Miami-Dade County Homeless Trust. He has been so employed since June 2014.

He previously worked for Citrus, as the entity's Director of Housing. He stopped working for Citrus in June 2014, when he commenced his employment at the County. He has not worked for Citrus, in any capacity, since he commenced his County employment.

He stated that he does not have a direct interest in Citrus or any of the responding firms to the RFP; nor does he serve as officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary, stock holder, bondholder, debtor or creditor, to any of the entities.

Additionally, he did not believe that his prior employment with Citrus would in any way interfere with his objective and independent judgment in the selection process.

Further, he stated that he does not have any personal friendships or relationships with persons that work for Citrus that would prevent him from exercising his best judgment for the benefit of the County.

Discussion: This agency conducts reviews of these issues under Section 2-11.1(v) of the County Ethics Code, which governs voting conflicts by members of County advisory and quasi-judicial boards. We also consider whether there is an appearance of impropriety created and make recommendations based on R-449-14 and Ethics Commission Rule of Procedure 2.1(b).

Specifically, Section 2-11.1(v) of the County Ethics Code states that no quasi-judicial personnel or advisory personnel 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) stock holder, bondholder, debtor or creditor.

It does not appear that Mr. Sarria has a voting conflict of interest under Section (v) of the County Ethics Code because he will not be directly affected by the vote and he does not have any of the enumerated relationships with an entity affected by the vote. *See* INQ 17-193.

Additionally, Section 2-11.1(x) of the County Ethics Code, commonly referred to as the Reverse Two-Year Rule, which bars County employees from participating in contract-related duties on behalf of the County with a former employer for a period of two years following termination of the employment relations, would not apply since Mr. Sarria stopped working for Citrus over 5 years ago. *See* INQ 17-174, INQ 17-183, 17-193, and INQ 18-229.

Further, as noted above, due to the sensitivity of the procurement process and the need to sustain public confidence in it, this agency also opines concerning whether there may be an appearance of impropriety in a given situation that would justify the removal of a member of a selection committee. *See* Section 2-1067, Miami-Dade County Code, and 2.1(b) of the COE Rules of Procedure.

The COE has advised in some of its informal opinions that an individual's appointment to a selection committee shortly after the two-year proscription, in Section (x) of the Ethics Code, although not expressly prohibited, may create an appearance of impropriety. *See* INQ 12-62, and INQ 16-161. In both cited informal opinions, the individuals were appointed to the selection committee prior to the termination of the two-year prohibition, but the actual selection committee meetings commenced after the two-year period expired. In both cases, the COE advised that the individuals should not serve on those selection committees as they were appointed and began their official duties prior to the expiration of the two-year period.

In this case, Mr. Sarria stopped working for Citrus over five years ago. He has affirmed that did not believe that his prior employment with Citrus would in any way interfere with his objective and independent judgment in the selection process. He has also indicated that he has no current business or close social relationship with persons that work for Citrus that would prevent him from exercising his best judgment for the benefit of the County.

Opinion: Consequently, at this juncture, we see no reason why Mr. Sarria should not serve on this selection committee, because he does not have a voting conflict of interest under Section (v) of the County Ethics Code, and there does not appear to be any appearance of impropriety created by his service on this committee. *See* INQ 17-174, INQ 17-183, 17-193, and INQ 18-229.

This opinion is limited to the facts as you presented them to the Commission on Ethics and 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.



BOARD OF COUNTY COMMISSIONERS
OFFICE OF THE COMMISSION AUDITOR

MEMORANDUM

TO: Victoria Mallette,
Executive Director Homeless Trust

FROM: Thomas B. Davis, Esq., Director
Policy & Legislation Division *Thomas B. Davis*

DATE: August 5, 2019

SUBJECT: Selection Committee for the Miami-Dade County Homeless Trust's
Request for Applications (RFA) for the 2019 NOFA Collaborative
Application

Pursuant to Resolution No. R-449-14 dated May 6, 2014, the Office of Commission Auditor (OCA) is directed to conduct background checks on members serving on evaluation or selection committees.

Issue: OCA's conducted a background research check through Westlaw that showed Mr. Manny Sarria is an Administrator for Citrus Health Network, Inc. Citrus Health Network is a respondent on this RFA.

The results of the background check will be submitted to the Internal Services Department or other County Department overseeing and administering the competitive procurement process as well as the Commission on Ethics, if applicable.

The voting members of the selection committee are:

- Manny Sarria, Miami-Dade County Homeless Trust
- Terrell Thomas-Ellis, Miami-Dade Homeless Trust
- Cesar Deville, Miami-Dade Homeless Trust
- Pauline Green, JD, Alliance for GLBTQ Youth
- Paul Imbrone, Rent Connect
- Elizabeth Regalado, Domestic Violence Oversight Board (Alternate)

The non-voting members of the selection committee is:

- Victoria Mallette, Miami-Dade County Homeless Trust, Non-Voting Chair

Findings: Pursuant to Resolution No. R-449-14, OCA completed the required background research concluding there were no adverse findings for the voting and non-voting selection committee.

c: Jose Arrojo, Executive Director, Commission on Ethics and Public Trust
Radia Turney, Staff Attorney, Commission on Ethics and Public Trust
Adeyinka Majekodunmi, Commission Auditor