

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, March 25, 2019 1:19 PM
To: Sanchez, Rodzandra (COE)
Subject: FW: INQ 19-33, Jennifer Moon, Miami Dade County Budget Director (Conflicting Service)
Attachments: INQ 19-33.docx

INQ 19-33 Moon

From: Perez, Martha D. (COE)
Sent: Monday, March 25, 2019 11:14 AM
To: Moon, Jennifer (OMB) <Jennifer.Moon@miamidade.gov>
Cc: Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Anderson, Machell (COE) <Machell.Anderson@miamidade.gov>
Subject: INQ 19-33

Dear Jennifer:

It was a pleasure speaking with you this morning. Thank you for engaging with the Miami-Dade Commission on Ethics and Public Trust. Attached you will please find INQ 19-33, a responsive ethics opinion to your question regarding a potential conflict.

Please do not hesitate to contact me should you have any questions.

Best regards,

Martha D. Perez
Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
19 West Flagler St. Suite 820
Miami, FL 33130
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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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MEMORANDUM

TO: Jennifer Moon,
Budget Director

FROM: Martha D. Perez,
Staff Attorney

SUBJECT: INQ 19-33, Conflict of interest, Conflicting service (2-11.1[j], County Ethics Code)

DATE: March 25, 2019

CC: COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding your position as the County's Budget Director and your appointment as Trustee with the Fairchild Tropical Botanic Garden, Inc. (Fairchild).

You are the Director for the Office of Management and Budget for Miami-Dade County (OMB). Among your duties, you are charged with the County's budget management and performance improvement which includes facilitating the County's more than \$7 billion budget through a resource allocation process. Pertinent to this inquiry, you also supervise the allocation, contracting and monitoring of approximately \$35 million in local and federal grants to community-based organizations (CBOs).

Fairchild is a 501 (c)(3) not-for-profit organization which supports a premier botanical garden, known for its research, conservation and educational programs in the community. You are a non-compensated volunteer Trustee for Fairchild. You do not receive any personal or financial benefit from your Trustee position.

Fairchild has been the recipient of community-based cultural facilities direct funding allocation grants from the County's Department of Cultural Affairs (DOCA) (\$376,000.00 in FY 2018-2019). It has also received BCC community-based organization (CBO) funding (\$66,450.00 in FY 2018-2019).¹

¹ Memorandum from Mayor Gimenez to BCC re Budget Hearing, September 6, 2018.

In your role as Budget Director you are tasked with providing status reports on the not-for-profit entities receiving BBC-GOB funds for their projects. The DOCA grant is managed through the Cultural Affairs Department. The BCC-CBO grant is processed through your department; however, you do not review, authorize, sign or transmit this grant; rather, it is sent directly to the Deputy Mayor for signature.

Generally, the County Ethics Code does not prevent County personnel from serving a County vendor, as long as the individual does not have any involvement with the vendor's contract. *See* INQ 14-168. In this instance, you have taken steps to insulate yourself from any involvement with the Fairchild grants/agreements, to wit: you are not responsible for the selection of Fairchild for the CBO or DOCA grants; you do not review, authorize, manage or oversee the grant agreements between the County and Fairchild; and, you have established firewalls to isolate your County position from Fairchild.

Consequently, it does not appear that your position as Trustee of Fairchild will impair your independence of judgment in the performance of your County duties. Section 2-11.1(j); *See* INQ 16-215; INQ 17-194

While there is no clear conflict of interest based on the facts presented, there are some limitations set out in the County Ethics Code that all County employees are reminded to follow:

- Section 2-11.1(g) prohibits a County employee from using his or her position to secure special privileges or exemptions for himself/herself or others.
- Section 2-11.1 (h) prohibits a County employee from disclosing confidential information acquired by reason of his or her official position; and,
- Section 2-11.1(m) prohibits a County employee from appearing before any County board or agency or meeting with staff or elected officials to make a presentation or seek a benefit, i.e., funding, on behalf of a third party.

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.