

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, May 16, 2019 1:50 PM
To: Sanchez, Rodzandra (COE); Anderson, Machell (COE)
Subject: FW: INQ 19-51
Attachments: INQ 19-51.docx

INQ 19-51 Martinez

From: Perez, Martha D. (COE)
Sent: Thursday, May 16, 2019 1:21 PM
To: imartinez@bmrllawgroup.com
Cc: Arrojo, Jose (COE) <Jose.Arrojo@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>
Subject: INQ 19-51

Dear Mr. Martinez,

Thank you for contacting the Miami-Dade Commission on Ethics & Public Trust, seeking our guidance in connection with your client's lobbyist registration requirements. Please find our opinion regarding same attached.

Cordially,

Martha D. Perez
Staff Attorney
MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST
19 West Flagler St. Suite 820
Miami, FL 33130
(305)350-0656
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MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

19 West Flagler Street, Suite 820 Miami, Florida 33130
Phone: (305) 579-2594 Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

Ian Martinez, Esq.
On behalf of Pantropic Power
Via email @ imartinez@bmlawgroup.com

RE: INQ 19- 51, Section 2-11.1(s), County Ethics Code, *Lobbying*

Dear Mr. Martinez,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding limitations imposed by the Lobbying Ordinance found at Section 2-11.1(s) of the County Ethics Code.

Your law firm is standing general counsel to Pantropic Power (PP) which is the local Caterpillar dealer in South Florida. PP has an existing contract with the Public Health Trust (PHT) to provide, *inter alia*, the sale, testing, inspection and service of emergency generators powering Jackson Health Systems (JHS) facilities throughout Miami-Dade County. The agreement implicitly provides for PP to render all required repairs to the generator units.

Purchase orders issued in October and November 2017 were renewed on October 31, 2018 for one year. During the inspection of the generators under these Purchase Orders (POs), PP identified maintenance issues on these units. Consequently, PP issued an estimate for the additional work.

Cecilia F. Wilson from JHS Purchasing has advised you that PP should register as a lobbyist to fulfill this PO. PP has never registered as a lobbyist in its transactions with JHS-PHT.

Section 2-11.1(s) of the County Ethics Code, Lobbying, defines a lobbyist as “ all persons, firms or corporations employed or retained by a principal who seeks to encourage the passage, defeat, or modifications of (1) ordinance, resolution, action or decision of the County Commission (PHT); (2) any action, decision, recommendation of the County [Mayor] (JHS-PHT CEO) or any County (JHS-PHT) board or committee; or (3) any action, decision or recommendation of County (JHS-PHT) personnel during the time period of the entire decision-making process on such action, decision or recommendation which foreseeably will be heard or reviewed by the County Commission (PHT), or a County (JHS-PHT) board or committee.” “‘Lobbyist’ specifically includes the principal...” In other words, an attempt to influence a decision-maker on an official action or decision of the government entity is considered lobbying. (INQ 12-47)

The Ethics Commission has opined that there is no need to register as a lobbyist when a vendor's function or activity is part of the scope of services of its current contract. (RQO 05-134; RQO 05-114) While you have indicated that the additional maintenance work is not within the scope of the original PO, the maintenance and/or repair work, although perhaps not specifically addressed in the original PO, is contemplated by the services provided by PP under its agreement with PHT. Therefore, the additional work proposed by PP under its scope of services does not require lobbyist registration.

It is important to note that, in the future, any communications in an attempt to or with the intent to, *negotiate* terms of a contract between PP and JHS-PHT would require lobbyist registration. (RQO 06-63, RQO 06-65, RQO 10-28; INQ 15-187)

Should you have any additional inquiries concerning the Two-Year Rule or any other provision of the County Ethics Code, please contact us at (305) 579-2594.

Sincerely,

Martha D. Perez
Staff Attorney

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.

