

MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

COMMISSIONERS

Nelson C. Bellido Esq., CHAIR
Dr. Judith Bernier, VICE CHAIR
Judge Lawrence A. Schwartz
Jan Jacobowitz, Esq.
Wifredo Gort



EXECUTIVE STAFF

Jose J. Arrojo
EXECUTIVE DIRECTOR
Michael P. Murawski
ADVOCATE
Martha Diaz Perez
GENERAL COUNSEL

January 31, 2020

Alicia Anderson, MBA
TELCOR, Director, Contracts
7101 A St., Lincoln, NE 68510
Via email @ alicia.anderson@telcor.com

RE: INQ 20-06, Section 2-11.1(s), County Ethics Code, *Lobbying*

Dear Ms. Anderson,

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

You advised that Jackson Health Systems (JHS) has an existing contract with TELCOR. The contract includes terms that provide for its automatic renewal on an annual basis. You have further advised that there have been no negotiations, nor do you foresee the need for any negotiation discussions regarding the contract or its extension.

You have inquired regarding whether TELCOR employees have to register as lobbyists.

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. *See* INQ 12-47.

The Ethics Commission has opined that an amendment or modification of an existing contract where the vendor communicates with County/ JHS personnel *to negotiate terms of the contract* would require registration as a lobbyist. *See* RQO 18-05; RQO 08-41. However, a vendor which solely responds and agrees to JHS’ option to extend their agreement, without any attempt to influence, advocate or negotiate any of the contractual terms, would not be required to register as a lobbyist. *See* INQ 19-52.

As you have described, neither JHS nor TELCOR have engaged in negotiations or discussions to extend the contract; rather, the existing contract includes terms that provide for the contract's automatic renewal without TELCOR seeking or attempting to influence, advocate or discuss any of the contractual terms.

Consequently, the automatic renewal of TELCOR's existing contract with JHS, without TELCOR seeking or attempting to influence, advocate or discuss any of the contractual terms would not trigger lobbyist registration.

It is important to note that, any future communications in an attempt to or with the intent to, *negotiate substantive terms* of a new or existing contract between TELCOR and JHS-PHT would require lobbyist registration. *See* RQO 06-63, RQO 06-65, RQO 10-28; INQ 18-48; INQ 15-187.

Sincerely,

Radia Turay, Esq.
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.