



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Miriam Collada-Myers, President, MC Designers, Inc., and Board Member, Miami-Dade Small Business Enterprises Goods and Services Board

FROM: Gilma Diaz-Greco, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2020-124

DATE: 11-11-20

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding Miami-Dade County advisory board members seeking to become County vendors.

Facts:

You serve as a Board Member of the Miami-Dade Small Business Enterprise Goods and Services (SBE G&S) Advisory Board, one of three (3) Miami-Dade County Small Business Enterprise (SBE) Advisory Boards. The other two (2) SBE Boards are the SBE Construction Advisory Board, and the SBE Architectural and Engineering (SBE A&E) Board. The purpose of these boards is to support and promote SBE programs in their particular category. In the case of the SBE G&S Board, its purpose is to support and promote G&S Programs in the County. It is intended to operate as a focal point for the public and along with the County Mayor's office to collect, provide input, and disseminate information related to economic opportunities within Miami-Dade County government for SBE G&S business owners.

You advise that you would like to contract with the County through your privately owned company, MC Designers, Inc. (MCDI), a for-profit Florida Corporation that provides interior design services. The County's Small Business Development (SBD) Division issues separate SBE certification for each of the following categories: Construction, A&E, and G&S. MCDI is SBE certified by the SBD Division in the A&E category. MCDI focuses on interior design projects and does not provide services in the G&S category. The SBE G&S Board is not involved in any way in any of the SBE certification processes for the SBE G&S, A&E, or Construction categories. Furthermore, the SBE G&S Board focuses on G&S programs and not on recommendations regarding SBE Construction or A&E programs.

Issue:

Whether the County Ethics Code would prevent your privately-owned company, MCDI, from contracting with the County as a certified SBE company in the A&E category.

Discussion and Opinion:

Your inquiry involves several sections of the County Ethics Code which are analyzed below:

Transacting Business with the County as a County Vendor

Section 2-11.1(c)(3) of the County Ethics Code generally permits County board members to transact business with the County either individually or through the board member's firm. However, pursuant to this section, County board members are prohibited from contracting with any County agency or department subject to the regulation, oversight, management, policy-setting, or quasi-judicial authority of the board of which the person is a member

In this instance, the board on which you serve, the SBE G&S Advisory Board, is not involved in any way in the SBE certification process administered by the SBD Division. The SBE G&S Advisory Board focuses only on matters involving goods and services programs and is not involved in providing input or making recommendations in the areas covered by the Construction or A&E SBE Advisory Boards. Consequently, MCDI is not prohibited from applying to become a County vendor providing A&E services to the County because the SBE Certification Division has no oversight or other authority over the SBE Advisory boards, nor do any of the SBE Advisory Boards make recommendations or decisions regarding SBE certification. The SBE G&S Board on which you serve does not have any advisory or other authority over A&E services or contracts that your company provides.

Prohibited Appearances

The County Ethics Code prohibits County Board Members from appearing before the County board or agency on which she serves to represent a third party and from receiving compensation, directly or indirectly, for services rendered to a third party who is seeking some benefit from the County board or agency on which such person serves.

Actions Prohibited where Financial Interests Involved and Exploitation of Official Position

Finally, the County Ethics Code prohibits a County board member from exploitation of their official position and from participating in any official action directly or indirectly affecting a business in which she or any member of her immediate family has a financial interest. This means that you may not contact anyone within the County (or anyone working on behalf of the County) in an attempt to influence his/her decision about any County contract to which you firm applies; and you may not use your County position to secure special privileges or exemptions with respect to participating in the County vendor application process. See County Ethics Code §§2-11.1(g) and (n).

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.

Please submit this opinion to the Procurement Department. The Ethics Commission does not submit this letter on your behalf.

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.