



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Fabian Escobar, Senior Systems Engineer
Miami-Dade County Information Technology Department

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 20-36, Gifts § 2-11.1(e), County Ethics Code

DATE: April 17, 2020

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:

You are a Senior System Engineer in the Miami-Dade County Information Technology Department. You advised that through your County employment, you discovered a possible vulnerability with a Microsoft product that the County uses. You brought the vulnerability to the attention of your supervisor, who advised that you should consider submitting the vulnerability to Microsoft through the Microsoft Bug Bounty Program.¹

The Microsoft Bug Bounty Program enables Microsoft users to submit vulnerabilities and exploitation techniques ("**Vulnerabilities**") to Microsoft about eligible Microsoft products and services ("**Products**") for a chance to earn rewards in an amount determined by Microsoft in its sole discretion ("**Bounty**").

¹ Please note that Sec. 2-11.1(h) of the Ethics Code provides that no County employee shall accept employment or *engage in any business or professional activity* which he or she might reasonably expect would require or induce him/her to disclose confidential information acquired by him or her by reason of his or her official position, nor shall he or she in fact ever disclose confidential information garnered or gained through his official position with the county, nor shall he or she ever use such information directly or indirectly for his or her personal gain or benefit. Therefore, you must ensure that your submission of a vulnerability through the Microsoft Bug Bounty Program will not require you to disclose confidential information acquired through your position at the County

The Program rules specifically note that, if “the submitting individual is a public sector employee (government and education), the Bounty **must** be awarded directly to the public sector organization that the individual works for.”² (Emphasis added)

Therefore, any Bounty, should one be awarded by Microsoft as a result of Mr. Escobar’s submission, would be awarded directly to Miami-Dade County. Microsoft is a County vendor.

Issue:

Whether Miami-Dade County may accept any Bounty payments awarded by Microsoft, a County vendor, through the Microsoft Bug Bounty Program

Discussion:

Section 2-11.1(e) generally prohibits the acceptance or solicitation of gifts given or received in exchange for official actions of County employees or officials (*quid pro quo* actions).

The Ethics Commission has explained in previous opinions that the Ethics Code does not prohibit the County from accepting donations for a specific County project or activity as long as no *quid pro quo* exists as a condition of the donation, and the donation is used for an official purpose and not for the personal gain of County employees. See RQO 02-70, INQ 07-69, and INQ 15-25.

Specifically, the Ethics Commission in RQO 05-119 opined that gifts/donations to a local governmental entity for a public purpose are not prohibited by the Ethics Code, as long as no *quid pro quo* activity takes place or is anticipated in the transaction. *See also* INQ 18-31 (Gifts provided for the sole use and benefit of the County are generally exempt from the County gift ordinance in Section 2-11.1(e) of the Code).

Opinion: Consequently, Microsoft’s award of any “bounty” to the County, does not violate the County Ethics Code provided that no *quid pro quo* activity takes place or is anticipated in the transaction, and the bounty is used by the County in performing its official business and not for the personal gain of County employees.

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.

² Subject to, receipt of a gift letter signed by the organization's ethics officer, attorney, or designated executive/officer responsible for your organization's gifts/ethics policy. Microsoft seeks to ensure that by offering Bounties under this Program, it does not create any violation of the letter or spirit of a participant's applicable gifts and ethics rules.

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.