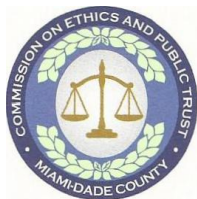


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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July 7, 2021

Ms. Deborah Dorsett (On behalf of City of Miami Employees)
Executive Director
Greater Miami Service Corps
810 N.W. 28th Street
Miami, FL 33127
and via email: ddorsett@gmscmiami.com

RE: INQ 2021-100, Section 2-11.1(m)(1), County Ethics Code

Dear Ms. Dorsett:

You inquire on behalf of Mr. Donovan Dawson whether a prohibited conflict of interest exists between his City of Miami employment and his current service as a volunteer, uncompensated member (Treasurer) of the Board of Directors of the Greater Miami Service Corps (GMSC), a 501 (c)(3) not-for-profit corporation. GMSC was awarded a Community Development Block Grant (CDBG) from the City of Miami in October 2020.

Background:

Pursuant to the information provided to this office, we note that, Mr. Donovan Dawson is employed in the City of Miami as Budget Analyst, Office of Management and Budget, and also serves in the GMSC Board of Directors as Treasurer. Mr. Dawson serves the GMSC on a volunteer, non-compensated basis.¹ In his position with the City as Budget Analyst, he does not participate in the selection, review, enforcement, or administration of the CDBG Program, which is administered by the Department of Housing and Community Development (DHCD).

¹ As Treasurer, Mr. Donovan is not actively involved in the administration of GMSC thus, he is not engaged in outside employment, prompting him to obtain approval from his supervisor on a yearly basis. *See* RQO 17-03 Likewise, he is not subject to the prohibition against conflicting employment under Section 2-11.1(j) of the County Ethics Code. *See* INQ 13-236, INQ 14-143, INQ 15-114; INQ 16-248; INQ 17-108

Greater Miami Service Corps: The mission of Greater Miami Service Corps (GMSC) is to enhance the employability and self-esteem of young adults ages 18-23, utilizing public/private ventures to provide tangible community improvements and develop a skilled workforce. Structured, meaningful work experience, along with educational opportunities are coordinated to integrate life skills with basic education and service learning, leading to self-sufficiency. <https://greatnonprofits.org/org/greater-miami-service-corps>

City of Miami Community Development Block Grant program: The City of Miami’s Community Development Block Grant program affords local private for-profit and *non-profit organizations* located within the City of Miami boundaries the opportunity to apply to the City's Department of Housing & Community Development for funding to serve residents in the areas of social services, housing, and economic development. The City of Miami receives majority of its grant funds from the U.S. Department of Housing and Urban Development (HUD) for its CDBG Program (and other programs) to benefit very low, low, and moderate-income persons. Some grant funds are also received from some local and state agencies. A significant portion of the funding is granted to the department for the purpose of disbursement to local organizations approved through a formal open competitive process.²

Issue:

Whether a prohibited conflict of interest exists between Donovan Dawson, a City of Miami employee, and his current service as a member of GMSC or the Board of Directors of the GMSC. GMSC was awarded a Community Development Block Grant (CDBG) from the City of Miami on October 15, 2020.³

Jurisdiction:

The Miami-Dade Commission on Ethics and Public Trust (COE) has jurisdiction to provide advisory opinions on *prospective* issues to municipal employees whose actions may be subject to relevant provisions under the County Ethics Code or to “suitable surrogates who ask for opinions on behalf of persons subject to the Code.” See INQ 18-161, citing to Section 2-1074(y), Miami-Dade County Code

² <http://archive.miamigov.com/communitydevelopment/aboutus.html>

The City of Miami Department of Housing & Community Development posts formal solicitations on its website to inform the general public, non-profit agencies, for-profit organizations, and other local municipalities of possible funding opportunities. <https://www.miamigov.com/Government/Departments-Organizations/Housing-Community-Development/Request-For-Proposals-RFP>

³ The GMSC was awarded \$39,500.00 from CDBG-Public Services program, to provide youth services for the period of October 1, 2020 through September 30, 2021.

Discussion:

The Conflict of Interest and Code of Ethics ordinance does not prohibit a City employee from serving as a member of a nonprofit organization which applies to and receives CDBG funds as long as the City employee does not financially benefit from CDBG funds distributed to the nonprofit organization. *See* RQO 05-19, RQO 07-42; *See also* INQ 06-86, INQ 10-201, INQ 09-135.

Notwithstanding, all municipal employees are prohibited from appearing before any City agency regarding a CDBG application or any other issue or request from their nonprofit organization. Pursuant to Section 2-11.1(m)(1), County Ethics Code, a City employee is prohibited from appearing before any City board or agency and make a presentation on behalf of a third party (i.e., nonprofit organization) with respect to a benefit sought by the third party (i.e., grant funding) or from receiving compensation, directly or indirectly or in any form, for services rendered to a third party which is seeking some benefit from the City. *See* RQO 12-10 (Pursuant to Section 2-11.1(m)(1), a County employee may not appear before County personnel, including officers, employees and advisory and quasi-judicial board members, on behalf of third parties, even in routine ministerial matters); INQ 05-66 (A County employee serving in a nonprofit which successfully receives funding from the County is barred from dealing with the County on any administration issues that might arise during the course of the contract; other board members would have to handle those responsibilities)

Consequently, since GMSC is seeking a benefit from the City, no City employee may appear at meetings with DHCD personnel or negotiate terms on behalf of GMSC regarding the grant. In addition, no City employee may sign any application documents or funding agreements. *See* RQO 08-30, RQO 01-106; *See also* INQ 12-13, INQ 09-33, INQ 04-89

Furthermore, a City employee may not receive compensation from CDBG funding awarded to the nonprofit entity by the City (DHCD). *See* RQO 05-19 (County employee is prohibited from accepting compensation from non-profit agencies from any dollars awarded by Miami-Dade County); *See also* INQ 11-01 (an appearance of impropriety could be created if the nonprofit organization obtained County funding that benefitted the County employee of the nonprofit to the exclusion of the nonprofit's public purpose)

It is also noted that, generally, requests (RFAs) for CDBG-public service funding must meet all federally-mandated requirements including conflict of interest provisions which provide that : No person [employee, agent, consultant, officer, elected or appointed official of the recipient] who exercises or has exercised any functions with respect to CDBG activities or who is in a position to participate in the decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have

business or immediate family ties, during their tenure or for one year thereafter. *See* 24 C.F.R. §570.611.⁴

Conclusion:

Mr. Dawson is not prohibited from serving as a member of the GMSC while employed by the City of Miami because he is not involved with any aspect of the grant funding being sought (or awarded) to the non-profit entity and the awarded funds will not be used for his financial benefit.

Please be aware that the following limitations under the County Ethics Code also apply to the City employees who serve as officers or directors of nonprofit entities:

- They may not use or attempt to use their official position(s) to secure special privileges or exemptions for themselves or others. *See* Section 2-11.1(g), County Ethics Code.

In order to ensure that there is no appearance that a City employee is using his City position to benefit himself or others, there should be no connection or involvement whatsoever between the employee's public duties and any aspect of the CDBG Program including oversight, administration, or determination of CDBG funding during the entire term of the grant/funding. *See* RQO 09-20; RQO 09-118; INQ 14-87; INQ 14- 62. This means no involvement in any decisions or actions taken by DHCD regarding the CDBG Program, including any City clerical or administrative functions. *See* INQ 04-15

- They may not use confidential information gained through their official position(s), directly or indirectly, for their personal gain(s) or benefit(s). *See* Section 2-11.1(h), County Ethics Code
- We also recommend that in order to avoid the appearance of impropriety, the City employee should not be involved in any of the GMSC decisions involving the City of Miami. For the same reason, although not directly prohibited by the County Ethics Code, it would be advisable in his or her role as a member of the Board of Directors to recuse

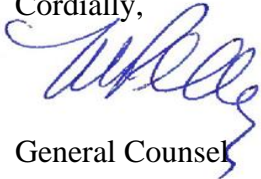
⁴ Ref. 24 CFR § 570.611(b) - Conflict of interest: No employee, agent, consultant, officer, or elected official or appointed official of the recipient, or of any designated public agencies, or of subrecipients that are receiving funds, who exercise or have exercised any functions or responsibilities with respect to CDBG activities assisted under this part, or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from a CDBG-assisted activity, or have a financial interest in any contract, subcontract, or agreement with respect to a CDBG-assisted activity, or with respect to the proceeds of the CDBG-assisted activity, either for themselves or those with whom they have business or immediate family ties, during their tenure or for one year thereafter.

Consequently, any intent by a City employee to receive a personal financial benefit from the CDBG funds to be allocated to the nonprofit entity (GMSC) would also appear to be in violation of the federal conflict of interest provisions applicable to CDBG funding recipients.

himself or herself from voting or participating in GMSC matters related to the City of Miami. *See* INQ 15-11⁵

This opinion is based on the facts which have been submitted to this office. It is not applicable to any other conflict under State law. Inquiries regarding possible conflicts under State law should be directed to the State of Florida Commission on Ethics. Please contact us if we may be of further assistance.

Cordially,



General Counsel

Cc: COE Legal Staff

Richard Appleton, Asst. City Atty. (RAppleton@miamigov.com)

Donovan Dawson (DAWSON112@hotmail.com)

⁵ As indicated in your letter, the City employees who are members of the Board of Directors of GMSC **do not** participate in the vote of any items related to the City of Miami.