



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Phillip G. Edwards, Esq., BCC Research Manager
Office of the Commission Auditor (OCA)

Manuel Jimenez, Non-Voting Chairperson
Internal Services Department (ISD)

FROM: Radia Turay, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2021-29 [Voting Conflict of Interest § 2-11.1(v); Appearances of
Impropriety]

DATE: February 17, 2021

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: We have reviewed your memorandum dated February 3, 2021 which was prepared in connection with the Appointment of the Selection Committee for Miami-Dade Community Action and Human Services Department Request for Proposals for Wynwood Development Program – RFP No. 00688. The memorandum was prepared in connection with Resolution No. R-449-14, directing the Office of the Commission Auditor (OCA) to conduct background checks on members serving on evaluation/selection committees.

The memorandum noted that a member of the selection committee made disclosures that merited submission to the Commission on Ethics for an opinion. Specifically, the memorandum notes that: “Debbie Dorsett, Greater Miami Service Corps., indicated via email to the Non-Voting Chairperson on February 2, 2021 that Greater Miami Service Corps. received a donation from Related Urban Development.”

We conferred with Ms. Dorsett. She is the Executive Director of Miami-Dade County Greater Miami Service Corps (hereinafter “GMSC”), a non-profit organization. She has been so employed since 2005. She confirmed that GMSC received a \$250 donation from Related Urban Development (hereinafter “RUD”). The donation was made in November 2020, prior to her appointment to this selection committee, through Give Miami Day. She

did not solicit the donation from RUD. She has no ownership or financial interest in RUD or any of the respondents to this solicitation. She will not receive any financial benefit through this solicitation. She does not have any business, close social, or other relationship with any employee of the respondent firms. She believes she can be fair and impartial when evaluating the various respondents to this project.

Discussion: This agency conducts reviews of these issues under the County Ethics Code, which governs conflicts by members of County advisory and quasi-judicial boards. We also consider whether there is an appearance of impropriety created and make recommendations based on R-449-14 and Ethics Commission Rule of Procedure 2.1(b).

Specifically, Section 2-11.1(v) of the County Ethics Code states that no quasi-judicial personnel or advisory personnel shall vote on any matter presented to an advisory board or quasi-judicial board on which the person sits if the board member will be directly affected by the action of the board on which the member serves and the board member has any of the following relationships with any of the persons or entities appearing before the board: (i) officer, director, partner, of counsel, consultant, employee, fiduciary or beneficiary' or (ii) stock holder, bondholder, debtor or creditor.

It does not appear that Ms. Dorsett has a voting conflict of interest under Section (v) of the County Ethics Code because she will not be directly affected by the vote and she does not have any of the enumerated relationships with any entity affected by the vote.

Further, as noted above, due to the sensitivity of the procurement process and the need to sustain public confidence in it, this agency also opines concerning whether there may be an appearance of impropriety in a given situation that would justify the removal of a member of an appointed selection committee. *See* Section 2-1067, Miami-Dade County Code, and 2.1(b) of the COE Rules of Procedure.

As noted above, Ms. Dorsett disclosed that her employer received a \$250 donation from RUD, a respondent to this solicitation. In prior informal opinions, the Ethics Commission has recommended that an individual who serves as a director for a non-profit organization, may not serve as a member of a selection committee, where one of the firms responding to the RFP has contributed services or made monetary donations to the individual's non-profit employer. *See* INQ 12-04, INQ 14-183; and INQ 16-205.

Specifically, in INQ 12-04, we advised that an employee of United Way, should not serve on a selection committee to review the Special Transportation System RFP, because United Way received a donation from Zuni Transportation, a named subcontractor of one of the bidders to that solicitation.

Similarly, in INQ 14-183, we advised that the Dean of the College of Architecture and the Arts at Florida International University (FIU), whose job duties included fundraising, was prohibited from serving as a competitive selection committee member for the Coconut Grove Playhouse, where four of the respondent firms for the project had annual financial commitment to FIU as members of the Dean's Leadership Advisory Board at the School of Architecture and several were contributors to other projects at the School. We stated that

a conflict of interest would arise because the Dean would be placed in a position where his independence of judgment could be affected by his position at FIU and his close association with some of the applicants on the project. We noted that this was, of course, no reflection on Dean's personal integrity, but simply a recognition that our Ethics Code is in place to protect against certain activity that could damage public trust in government

Further, in INQ 16-205, we recommended that an individual who served as a director for a non-profit organization may not serve as a member of a selection committee for the Marketing Services RFP at JHS where one of the firms responding to the RFP had contributed free services to her non-profit, which could interfere with her independence of judgment in making a decision regarding that company's application under an RFP.

Opinion: Consequently, consistent with our prior COE opinions on this issue, it is our recommendation that Ms. Dorsett, who serves as the Executive Director of GMSC, should not serve on this selection committee, because one of the firms responding to this solicitation, RUD, made a monetary donation to her non-profit employer, GMSC. *See* INQ 12-04, INQ 14-183; and INQ 16-205. We noted that this is, of course, no reflection on Ms. Dorsett's personal integrity, but simply a recognition that in procurement matters, appearances of integrity and fairness are paramount, as "there is a need for the County to conduct its procurement operations in a manner that will not create appearances of impropriety, favoritism or undue influence...[which] may require a higher standard of ethics...." *See* INQ 14-242 and INQ 17-131.

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.

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.