



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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

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### MEMORANDUM

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**TO:** Victoria Mallette, Selection Committee Chairperson  
Executive Director, Homeless Trust  
  
Sade Chaney, Research Manager  
Office of the Commission Auditor

**FROM:** Nolen Andrew Bunker, Staff Attorney  
Commission on Ethics (COE)

**SUBJECT:** INQ 2022-100, Voting Conflict of Interest § 2-11.1(v); County Resolution R-449-14, Appearances of Impropriety

**DATE:** June 9, 2022

**CC:** All COE Legal Staff

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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 May 31, 2022, which was prepared in connection with the Selection Committees for Public Housing and Community Development FY 2022 Request for Applications (HOME and ESG). The memorandum was prepared in connection with Resolution Number 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 one member (Technical Advisor) of the selection committee made a disclosure on his Neutrality Affidavit/Disclosure Form that merited submission to the Commission on Ethics for an opinion. The memorandum noted that:

Manny Sarria, Homeless Trust, indicated on his resume that he was employed by Citrus Health Network, Inc. as Director from October 1996 until June 2014. Citrus Health Network, Inc. is a respondent to this solicitation.

We conferred with Mr. Sarria. He is the Assistant Director of the Miami-Dade County Homeless Trust (“HT”) and his responsibilities there are primarily: issuing solicitations for local food and beverage funding; issuing collaborative applications for state and federal funding benefiting the homeless; and, overseeing the Housing Coordinator, Compliance Office and HMIS staff. He confirmed that he previously worked for Citrus Health Network, Inc. (“CHN”) as Director of Housing. Mr. Sarria stated that he left his employment with CHN in June 2014, and that the termination of his employment with CHN was amicable. Mr. Sarria has no current ownership interest or other financial interest in the company. He stated that he maintains professional friendships with one or more employees of CHN, but he clarified that they do not frequently socialize and he stated that he does not think those relationships would affect how he evaluated the various respondents to this project. Mr. Sarria believes he can be fair and impartial when evaluating the respondents to this project.

With regard to this project, Mr. Sarria stated that he is a non-voting member of the committee serving as a Technical Advisor and that he: 1) uses the provider annual performance reports submitted by each respondent to figure out the performance points in a standardized way and provides those points to the selection committee Members; and, 2) asks the Miami-Dade County Public Housing and Community Development Department (“PHCD”) about expenditures and provides the committee with information on the provider’s ability to spend previously allocated funds.

#### Discussion:

The Miami-Dade Commission on Ethics and Public Trust (“COE”) conducts a review of issues arising under the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”), which governs conflicts by members of County advisory and quasi-judicial boards. The COE also considers whether the circumstances create an appearance of impropriety and makes recommendations based on Resolution No. 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.

In this case, it does not appear that Mr. Sarria has a voting conflict of interest under Section (v) of the County Ethics Code because, as a Technical Advisor to the selection committee, he will not have a vote. It is nevertheless worth noting that, even if Mr. Sarria were a voting member of the selection committee, he will not be directly affected by the vote, and he does not currently have any of the enumerated relationships with any entity affected by the vote. *See* INQ 20-84; INQ 20-79.

Additionally, Section 2-11.1(x) of the County Ethics Code, commonly referred to as the Reverse Two-Year Rule, which bars County employees from participating in contract-related duties on behalf of the County with a former employer for a period of two years following termination of the employment relations, would not apply to Mr. Sarria because he stopped working for CHN eight years ago. *See* RQO 17-04; RQO 10-05; INQ 20-136; INQ 15-35 (the COE advised against Mr. Sarria's appointment to a selection committee reviewing a CHN application "shortly after the two-year proscription").

Further, as noted above, due to the sensitivity of the procurement process and the need to sustain public confidence in it, the COE 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* Miami-Dade County Code § 2-1067; COE Rules of Procedure § 2.1(b).

As noted above, Mr. Sarria disclosed that he was previously employed by CHN, a respondent to this solicitation. As Mr. Sarria's employment at CHN ended eight years ago, on an amicable basis, he has no current ownership interest or other financial interest in the company, and he does not have any business, or close social relationship with current employees at the entity that would affect his evaluation of the various respondents to this project, it is our opinion that Mr. Sarria's prior employment at CHN would not create an appearance of impropriety or in any way detract from the County's conducting a fair and objective evaluation for this project. *See* INQ 21-67 (finding that Mr. Sarria does not have any close personal or business relationships with CHN that would create any appearance of impropriety or in any way detract from the County's conducting a fair and objective evaluation for this project).

Opinion:

Accordingly, consistent with our holdings in prior ethics opinions, **Mr. Sarria does not have a conflict of interest under the County Ethics Code** that would prevent him from serving on this selection committee as a Technical Advisor because he will not be directly affected by the vote, he does not have any enumerated relationship with an entity affected by the vote, and his service on the selection committee would not otherwise give rise to an appearance of impropriety. *See* INQ 21-67.

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

This opinion is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <http://www.ethics.state.fl.us/>

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.