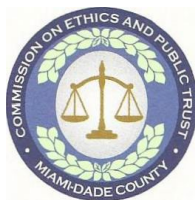


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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August 3, 2022

Hector Camps
Founder, CEO
PHI Cubed, Inc.
Via email: hectorcamps@phicubed.com

Re: INQ 2022-122, Lobbying, Section 2-11.1(s), County Ethics Code

Dear Mr. Camps,

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding lobbyist registration requirements for your procurement advocacy efforts with various Miami-Dade County departments.

Facts: You are the President of PHI Cubed, Inc. (PHI Cubed), a County vendor, which is a value-added reseller (VAR) service provider. In order to provide your services, your company partners with various service providers including your local partner, Dassault Systèmes. Your company promotes the adoption of the 3DEXPERIENCE Platform for use at the Miami International Airport and with other Miami-Dade County Departments. Dassault Systèmes is one of your suppliers and the owner of the 3DEXPERIENCE Platform, represented by Todd Finazzo.

PHI Cubed is participating in meetings with various County departments to educate County departments on the technology available and its uses. As part of your presentations, you utilize technical advisors, who are generally employed by your suppliers. These advisors are a part of the team which attends the department meeting, and they participate in and assist with the meeting presentation, answering technical questions regarding their particular area of expertise (i.e. accounting, information technology, engineering, software architecture, etc.). While the meetings are intended to educate departments as to the technology and available data collection uses, you are marketing your services at the meetings. You advise that PHI Cubed is registered to lobby and is the prime on the account. You specifically inquire as to the lobbyist requirements for Todd Finazzo of Dassault Systèmes, who is supporting PHI Cubed's efforts to engage and market the product specifically to the Miami-Dade Aviation Department and acting as a technical advisor in the capacity described above.

Issue: Whether a registered lobbyist may retain a technical advisor to attend a marketing meeting with County department personnel without registering as a lobbyist.

Analysis and Opinion:

The lobbyist registration requirement in Section 2-11.1(s) of the County Ethics Code apply to all lobbyists and principals.

“Lobbyist” means all persons, firms, entities, or corporations that are employed, designated, or retained by a principal, with or without compensation, or that contract with a third-party for economic consideration to perform lobbying activities on behalf of a principal. “Lobbyist” includes the principal that lobbies, as well as any employee that has been designated by the principal to perform lobbying activities on behalf of the principal.

“Principal” means the person, firm, corporation, or other entity that performs lobbying activity on behalf of itself or that has designated, employed, or retained a lobbyist to lobby on its behalf. The term “principal” also includes the person, firm, corporation, or other entity receiving the benefit of the lobbying effort and on whose behalf the lobbyist is lobbying, even if the lobbyist is retained, engaged, or employed by a third-party for such purposes.

Section 2-11.1(s)(1)(e) and (f) of the County Ethics Code.

“Lobbying activity” means any attempt to influence or encourage the passage or defeat of, or modification to, governmental actions, including, but not limited to, ordinances, resolutions, rules, regulations, executive orders, and procurement actions or decisions of the County Commission, the Mayor, any County board or committee, or any County personnel. The term “lobbying activity” encompasses all forms of communication, whether oral, written, or electronic, during the entire decision-making process on actions, decisions, or recommendations which foreseeably will be heard or reviewed by County personnel. This definition shall be subject to the exceptions stated in subparagraph (s)(2) below.

Section 2-11.1(s)(1)(d) of the County Ethics Code.

Based on the description of the meeting you provided, it is likely that the type of decision the meeting with County personnel is intended to influence falls within the definition of lobbying activities. Hence, you are required to register as a lobbyist to participate in these meetings.

As for the individuals you describe as technical advisors, which are employees of your service providers or local partners, in this case Todd Finazzo of Dassault Systèmes, it is our understanding that these advisors will be advising on technical issues during the meeting presentation.

Section 2-11.1(s)(2)(h)(4) of the County Ethics Code provides an exception to the lobbyist registration rule excluding from the definition of lobbyist, “[a]ny person engaged in following activities involving a procurement matter . . . presentation by technical experts, or persons employed or retained by a principal whose normal scope of employment does not include lobbying activities, for purposes of explaining or demonstrating characteristics or performance of a procurement matter, **provided the presentation does not include any advocacy or**

recommendations on the procurement matter and is otherwise consistent with the pending procurement matter or guidelines and procedures.”

Additionally, the Ethics Commission has not required lobbyist registration for expert witnesses who attend staff meetings without making any formal or prepared presentation, but only for the purpose of being present to **answer** technical questions that may be posed by staff members, i.e., they will not be called upon by the client or your company to be part of the presentation offered to the staff, but only present to make their expertise and knowledge available should the staff initiate and invite their participation. *See* INQ 18-162; *see also* INQ 13-292 (Individuals accompanying registered lobbyists meeting with the Mayor are not lobbying where they are potential subcontractors who will not be participating in the presentation but will be available to take questions regarding matters within their subject matter expertise).

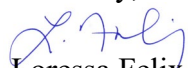
On the other hand, the Ethics Commission has previously held that technical experts, who appear on behalf of an employer at a meeting with County staff, to influence a decision by County officials, should register as lobbyists. *See* INQ 13-304 and INQ 18-162.

Consequently, if the purpose of Mr. Finazzo’s presentation in the meeting is intended to influence a County decision, then he would be required to register as a lobbyist and attend the lobbyist ethics training as noted in Section 2-11.1(s). However, if Mr. Finazzo’s normal scope of employment does not include lobbying activities, his involvement in the presentation at the meeting is limited to that of a technical expert solely for the purpose of explaining or demonstrating characteristics or performance of a procurement matter, and his presentation does not include any advocacy or recommendations on the procurement matter, then Mr. Finazzo would be a technical expert exempted from the lobbyist registration requirement. Therefore, if there is uncertainty as to Mr. Finazzo’s role in this meeting and his presentation is such that it may be considered to be advocating on your behalf (in other words, going beyond strictly facts), then it is recommended that, in an abundance of caution, that he register to lobby.

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.

Thank you again for seeking guidance from the Commission on Ethics. Please do not hesitate to contact me should you require any additional assistance.

Sincerely,



Loressa Felix, Esq.

Staff Attorney

Miami-Dade Commission on Ethics and Public Trust

cc: All COE Legal Staff

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.