
MEMORANDUM

TO: Bassam Moubayed, CFM, Chief, Construction Division
MDC Department of Transportation and Public Works (DTPW)

FROM: Martha D. Perez, General Counsel
Commission on Ethics and Public Trust

SUBJECT: INQ 2022-59, Conflicting service with non-profit entity

DATE: April 5, 2022

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 transaction involving your proposed volunteer board service with a non-profit entity.

Facts

You are a Division Chief in the County's DTPW, in charge of the daily operation for construction management. You are also a certified floodplain manager with extensive experience in the stormwater and water management fields. You are considering nominating yourself for a seat on the board of directors for the Florida Stormwater Association (FSA) for the local government representative seat. The FSA is a 501(c)(4) non-profit corporation serving professionals in stormwater management and finance. It provides training and education¹, technical assistance, advocacy, and legislative relations.²

You will not be receiving any compensation for your service on the FSA board of directors. You also advise that, although you cannot be certain, it is highly unlikely that FSA transacts business with the County or receives grants directly from the County. Lastly, you assure us that the

¹ In INQ 16-13, the COE opined that there was no conflict of interest prohibiting you from engaging as a trainer with the FSA, teaching classes for certified storm water operators in the Miami-Dade County area where some County employees would be attending the classes. *See also* INQ 07-14

² www.florida-stormwater.org

volunteer hours you will be providing for FSA will not conflict with your County job schedule or responsibilities nor will you be using any County resources in your FSA service.

Analysis

Generally, the uncompensated service as a board member of a nonprofit entity board is not considered outside employment as defined by Miami-Dade County Code §§ 2-11.1 and 2-11.1 (k). *See* INQ 13-236, INQ 14-143, INQ 16-22, COE’s Outside Employment Memorandum (2014).

Based on the description of the board and your current County duties, there are no ethics conflicts regarding your County employment and your board service at FSA. However, there are several sections of the County Ethics Code which merit addressing:³

Section 2-11.1(g) prohibits you from using your County position to secure special privileges or exemptions for yourself or FSA.

Section 2-11.1(h) prohibits you from disclosing confidential information acquired by reason of your official County position.

Section 2-11.1(m)(2) prohibits you from appearing before any County board or agency or meeting with staff or elected officials to make a presentation or to seek a benefit (solicitation/funding/grant/sponsorship) on behalf of FSA. *See* INQ 12-13, INQ 11-01, INQ 10-201.

While you have indicated that it is highly unlikely that FSA transacts business with the County, should a situation arise in the future where FSA entertains doing business or engaging with the County’s DTPW, we recommend that, in order to avoid the appearance of impropriety, you refrain from any involvement requiring any interaction between your County position and FSA.

This opinion is based on the facts as presented. If any of these facts change, please contact 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 Commission on Ethics 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.

³ *See generally* INQs 16-22, 16-215, 16-287, 17-178, 17-187, 19-41