



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Dr. Erica Unz
Veterinarian
Meows & Purrs Feline Hospital, LLC

Enkelejda Plasari
Procurement Contracting Officer 1
Miami-Dade County Internal Services Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-61, Section 2-11.1(q), Continuing application after County service.

DATE: April 6, 2022

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible conflicts of interest arising from Dr. Erica Unz’s response to Solicitation RTQ-01702 for veterinary services and her recent County employment.

Facts

An inquiry has been submitted concerning whether a conflict of interest would exist were Dr. Erica Unz, a former employee of Miami-Dade County Animal Services Department (“ASD”), to contract with the County in response to Solicitation RTQ-01702 from the Miami-Dade County Internal Services Department (“ISD”).

Dr. Unz is currently self-employed as a veterinarian and as the owner/operator of the Florida corporation Meows & Purrs Feline Hospital, LLC (“M&P”). Dr. Unz was previously employed

with ASD as a veterinarian from May 2020 until January 2022.¹ Dr. Unz separated from her employment with ASD on good terms.

The County, through ISD, has established a prequalified pool of vendors that it uses to solicit, on an as-needed basis, veterinary services for canine, feline, and other animals assigned to ASD. ISD uses Solicitation RTQ-01702 - Veterinary Services (Prequalification) to establish this pool of vendors. Vendors in the approved pool are subsequently invited to participate in spot market competitions in the form of either an Invitation to Quote (“ITQ”) or a Work Order Proposal Request (“WOPR”).

Dr. Unz, through M&P, has submitted a response to Solicitation RTQ-01702.

Issue

Whether there is any prohibited conflict of interest related to M&P’s bid in response to Solicitation RTQ-01702 from ISD arising from Dr. Unz’s recent employment with ASD.

Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics (“County Ethics Code”) Section 2-11.1(q)(1) provides that:

No person who has served as . . . [a County] employee shall, for a period of two (2) years after his or her county service or employment has ceased, lobby any county officer, departmental personnel or employee in connection with any . . . application, RFP, RFQ, bid, request for ruling, or other determination, contract . . . or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect.

This is commonly referred to as the Two-Year Rule. *See* INQ 19-85; INQ 16-78. Under the Two-Year Rule, former County employees are prohibited from *lobbying* the County for two years after they cease County employment. *See* INQ 19-85. The lobbying activities prohibited by the Two-Year Rule are more expansive than those covered by the general lobbying subsection of the County Ethics Code. *See id.*

As such, within the two-year period covered by the Two-Year Rule, former County employees are prohibited from arranging or participating in any meetings, negotiations, oral presentations, or other discussions directly with County officials or staff for the purpose of

¹ Dr. Unz also serves as a corporate officer of a Florida not-for-profit corporation Cat’s Meow Kitten Nursery, Inc., which seeks to provide veterinary access and support to fostered felines, as well as teaching the importance of feline sterilization. At this time, Dr. Unz indicated that she does not intend to contract with the County through this entity.

influencing the County elected official, staff, or employee to take any type of official action, decision, or recommendation. See INQ 16-151 (citing RQO 04-33, RQO 02-139). “[A]ctivities that entail meetings with County staff to discuss . . . requested modifications to plans or permits may be considered lobbying, and therefore, deemed impermissible under the two-year rule.” RQO 04-33. However, inquiries involving procedural questions, such as confirming receipt of applications or inquiries about the status of submitted applications are not considered lobbying; rather, they are routine administrative matters. *Id.*; see also INQ 16-151.

For example, a former employee of the Miami-Dade County Aviation Department, who retired and was later employed as the President of a private company, was permitted to submit a proposal in response to a County Request for Proposal (“RFP”), but she was not permitted to “communicate either in writing or orally with anyone in the County in an effort to influence a decision on th[e] matter, including appearing at any selection or evaluation committee meetings or in any way engaging with County personnel on behalf of the proposal.” INQ 16-78.

Similarly, a former City of Miami Beach employee who later gained employment as the Vice-President of a private company that was part of a team bidding on a municipal Request For Quote (“RFQ”) could discuss the contract terms, conditions, and compensation with his team members; however, he was *prohibited* from participating in negotiations or other discussions directly with municipal officers and staff regarding the same matters because such actions would constitute seeking to influence an officer or employee to take an official action or make an official decision. See RQO 12-09.

Here, Solicitation RTQ-01702 is analogous to the RFP and RFQ discussed above. As a result, M&P can submit a response to the solicitation without violating the Two-Year Rule as applied to Dr. Unz. See RQO 12-09; INQ 16-78. However, the Two-Year Rule prohibits Dr. Unz from corresponding with any County officer or employee regarding M&P’s response to RTQ-01702 beyond routine administrative inquiries concerning the receipt and status of the pending response. See INQ 16-151. Similarly, if ISD accepts M&P into the qualified pool of veterinary vendors, then Dr. Unz could further submit bids on behalf of M&P in response to any spot market competitions in the form of ITQs or WOPRs issued to that pool of qualified vendors. See RQO 12-09; INQ 16-78. However, the Two-Year Rule would prohibit Dr. Unz from in any way negotiating with any County personnel regarding the terms of her responses to said ITQs or WOPRs. See INQ 16-78. We understand that this may make it difficult for M&P to contract with the County if M&P consists essentially of Dr. Unz with no other employees to speak for the application, but any such negotiations conducted by Dr. Unz would be prohibited by the Two-Year Rule. See INQ 16-78.

Opinion

Based on the facts presented here and discussed above, the Two-Year Rule does not prohibit Dr. Unz, through M&P, from contracting with the County pursuant to Solicitation RTQ-01702 for veterinary services, nor any subsequent spot market quotes in the form of ITQs or WOPRs issued to the pool of qualified veterinary vendors established by RTQ-01702. **However, the Two-Year Rule would prohibit Dr. Unz from engaging in any meetings, negotiations, presentations, or other discussions directly with County officials or staff regarding either Solicitation RTQ-01702 and any subsequent spot market quotes in the form of ITQs or WOPRs.** See

RQO 12-09; INQ 16-78. This prohibition includes any meetings, negotiations, presentations, or other discussions that are initiated or requested by County officials or staff. *Id.* Nevertheless, Dr. Unz would be permitted to engage in communications with County officials or staff concerning already approved contracts, so long as those communications are not intended to influence the award, amendment, or modification of the contract. *See* INQ 17-181.

Furthermore, Dr. Unz should consider another provision of the County Ethics Code that impacts former employees and confidential information. Dr. Unz is prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of her past County employment to derive a personal benefit either to herself or to M&P and M&P's clients. *See* County Ethics Code § 2-11.1(h); INQ 17-181.

Finally, we emphasize that the County Ethics Code represents a minimal standard of conduct for those who have served in government and remain subject to the Two-Year Rule. *See* INQ 17-181. Former employees should carefully consider the totality of the circumstances before taking action that could possibly erode the public's trust. *See id.* (citing INQ 13-197). If Dr. Unz is uncertain whether a specific activity constitutes lobbying, she should seek an opinion from this office prior to engaging in such activity.

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.

Other conflicts may apply based on directives from ISD, ASD, or under state law. Questions regarding possible conflicts based on ISD and ASD directives should be directed to those respective departments or the Mayor's Office. 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 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.