



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Gabriel Paez
Community Advocacy Program Officer 1
Miami-Dade Board of County Commissioners

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-88, Sections 2-11.1(e), Gifts; (w), Prohibition on acceptance of travel expenses from County vendors.

DATE: May 24, 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 concerning a gift/prize awarded to you.

Facts

You are a Community Advocacy Program Officer 1 for the Miami-Dade County Board of County Commissioners (“BCC”). Specifically, you are the Program Director for the Miami-Dade County Lesbian, Gay, Bisexual, Transgender, and Queer (“LGBTQ”) Advisory Board. You indicated that you are the only County staff working for the Miami-Dade County LGBTQ Advisory Board and your responsibilities are similar to that of a clerk of the board when meetings are held, but that you otherwise work to promote the LGBTQ Advisory Board and its mission.

You have advised that you attended a virtual event held by the International Gay and Lesbian Travel Association (“IGLTA”) and sponsored by the Intercontinental Hotels Group Resources, LLC (“IHG”). You were invited to attend the event as the Program Director of the Miami-Dade County LGBTQ Advisory Board; however, you were an attendee, not a presenter. As part of the event, participants were encouraged to participate in a contest in which, at the end of the event, they answered questions about the topics that had been presented on during the event. You advised that, because you answered the most questions correctly, you received a prize: a complimentary two-night stay at the Holiday Inn Express and Suites – Downtown Naples, located in Naples, Florida. The value of the prize is over \$100.00.

IHG is a foreign limited liability company registered to do business in Florida. IHG is the parent company of the Holiday Inn and Suites. Based on a records search, IHG does not appear to be a County vendor.

Issue

Whether you may accept the two-night hotel stay you won at the IGLTA event pursuant to Sections 2-11.1(e) and (w) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (Gifts; Prohibition on acceptance of travel expenses from County vendors).

Analysis

The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”), prohibits covered individuals from accepting travel-related expenses from entities who are County vendors. *See* County Ethics Code Section 2-11.1(w). The BCC may waive this prohibition by a majority vote. *See id.*

Additionally, it is unlawful for County employees:

to accept or agree to accept from another person or entity, any gift for or because of: an official public action taken, or to be taken, or which could be taken; a legal duty performed or to be performed, or which could be performed; or a legal duty violated or to be violated by [the Mayor or a County Commissioner].

County Ethics Code § 2-11.1(e)(3). The term “gift” is defined as, “the transfer of anything of economic value, whether in the form of money, service, loan, travel, entertainment, hospitality, item or promise, or in any other form, without adequate and lawful consideration.” County Ethics Code § 2-11.1(e)(1). When a County employee accepts a gift, if said gift or series of gifts from a single entity has a value in excess of \$100.00, then said County employee must file a gift disclosure with the Clerk of the Board of County Commissioners. *See* County Ethics Code § 2-11.1(e)(4); INQ 19-93.

In general, “a gift won by chance and not obtained through the performance of an official duty does not present a conflict of interest.” INQ 21-112 (citing INQ 16-173; INQ 12-162). Specifically, a County Department Director was permitted to accept an item won through a raffle at a conference she attended because it was not obtained through an inducement to take a legal action or to perform a legal duty. *See* INQ 12-162. Similarly, a County employee who attended a work-related meeting in which a non-County vendor presented their product and then raffled off a bicycle was permitted to accept this raffle prize. *See* INQ 08-63. Likewise, a Senior Operating Systems Programmer for the County was permitted to accept a raffle prize won at a work-related conference she attended in California in which her business card was drawn at random. *See* INQ 09-124. Finally, Miami-Dade County Information Technology Department employees were permitted to participate in raffles administered by a County vendor because prizes were won by chance and not awarded in exchange for any duty or act related to the employees’ County positions. *See* INQ 21-112.

Here, the County Ethics Code prohibition against accepting travel-related expenses from County vendors does not prevent you from accepting the two-night hotel stay because it appears that the sponsor of the prize/gift – IHG – is not a County vendor. *See* County Ethics Code 2-11.1(w). Additionally, the prize/gift was not provided to you by IHG in exchange for any *quid pro quo* action on your part, meaning it was not awarded to you in exchange for any official duty or act performed by you in relation to your official duties. *See* INQ 21-112. However, the prize/gift at issue here was not awarded to you purely by chance; rather, it was awarded to you in part because of your attentiveness at the virtual event. Nevertheless, it is significant that the gift/prize awarded to you was initially equally available to all attendees of the virtual event and that you did not garner any advantage in winning the gift/prize by virtue of your County position. Accordingly, your situation is analogous to those gifts/prizes awarded to County employees pursuant to a raffle. *See* INQ 21-112; INQ 12-162; INQ 09-124; INQ 08-63.

Opinion

Based on the facts present here and discussed above, the County Ethics Code does not prohibit you from accepting the two-night hotel stay you won at the IGLTA event and awarded by IHG. *See* INQ 21-112. However, because the value of the two-night hotel stay is over \$100.00 in value, if you choose to accept it **you must file a gift disclosure form with the Clerk of the Board of County Commissioners** as required by the County Ethics Code. *See* County Ethics Code § 2-11.1(e)(4); INQ 19-93.

Further, please note that, although not enforced by the Miami-Dade County Commission on Ethics and Public Trust, Section 112.3148, Florida Statutes, prohibits public servants who are “reporting individuals” or “procurement employees” from accepting gifts from vendors or lobbyists in excess of \$100.00. Consequently, if you are considered a “reporting individual” or a “procurement employee” under State law, you may not accept any gift from a County vendor or lobbyist in excess of \$100.00. *See* INQ 21-112.

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 the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. 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.