

Frigo, Victoria (COE)

From: Frigo, Victoria (COE)
Sent: Wednesday, September 11, 2013 2:13 PM
To: Martin, Alphermeia (OMB)
Cc: Thompson, Robert A. (COE); Diaz-Greco, Gilma M. (COE)
Subject: Youth Crime Task Force (INQ 13-224)

Ms. Martin,

You asked about potential conflicts of interest for board members who are currently serving on the Youth Crime Task Force (YCTF) and the Dade-Miami Criminal Justice Council (DMCJC) who are **employed by** Community Based Organizations (CBOs) that receive funds administered by the Office of Management and Budget (OMB).

As we discussed today, the CBOs are nonprofit and/or religious entities that do not allow for ownership interests in the entity. Therefore, the County Ethics Code at Secs. 2-11.1 (c)(3) and (c)(4) is not applicable to these board members because they do not have a "controlling financial interest" in the entity with matters before their board. A "controlling financial interest" is defined in the County Ethics Code at Sec. 2-11.1 (b)(8) as an ownership interest, directly or indirectly, of 10% or more.

However, other provisions of the County Ethics Code apply to employees of nonprofit entities with matters before their boards:

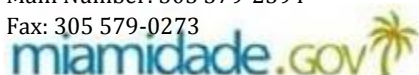
- Sec. 2-11.1 (m)(2) prohibits board members from appearing before their board, either directly or through an associate, to seek a benefit on behalf of their nonprofit employer. This means that the employee must not "lobby" or try to influence his board for the benefit for his nonprofit employer.
- Sec. 2-11.1 (v) prohibits board members from voting on or being involving in any way with board matters affecting their nonprofit employers if the board member will be directly affected by the vote. A clear voting conflict exists if a board member is receiving any personal financial benefits, such as a portion of his salary, as a result of the actions of the board. Additionally, board members must also recuse themselves if the vote relates to funding a department that the board member heads.

Additionally, the Florida Sunshine Act prohibits board members from discussing board business except at a duly noticed public meeting where the public is invited and minutes are taken. No board business can be discussed before the meeting is called to order or after the meeting adjourns.

Sincerely,

VICTORIA FRIGO, SENIOR STAFF ATTORNEY

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From: Martin, Alphermeia (OMB)
Sent: Monday, September 09, 2013 11:26 AM
To: Thompson, Robert A. (COE)
Subject: Youth Crime Task Force (YCTF) Advisory Board Membership Ethics Question

Good Afternoon Mr. Thompson,

The following sections of the Ethics Ordinance seem to indicate that there may be conflicts of interest for the board members who are currently serving on the YCTF and the DMCJC and are employed by CBOs receiving funds administered by our office.

According to 2-11.1 (c)(3) is an employee of a community-based organization that contracts with the County, through the Office of Management and Budget (OMB), prohibited from sitting an advisory board (staffed by OMB) that makes funding recommendations for their organization?

According to 2-11.1 (c)(4) would this member need to seek an opinion from your office prior to responding to a request for proposal or other County solicitation?

2-11.1

- **(c)(3)**
“Limited exclusion from prohibition on autonomous personnel, advisory personnel and quasi-judicial personnel contracting with County. Notwithstanding any provision to the contrary herein, Subsections (c) and (d) shall not be construed to prohibit any person defined in Subsection (b)(2), (b)(3) and (b)(4) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the board member or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County. However, any person defined in Subsection (b)(2), (b)(3) and (b)(4) is prohibited from contracting with any agency or department of Miami-Dade County subject to the regulation, oversight, management, policy setting or quasi-judicial authority of the board of which the person is a member.”


- **(c)(4)**
“Any person defined in Subsections (b)(2) through (b)(4) and Subsection (b)(6) shall seek a conflict of interest opinion from the Miami-Dade County Commission on Ethics and Public Trust (“the Ethics Commission”) prior to submittal of a bid, response or application of any type to contract with the County by the person or his or her immediate family. A request for a conflict of interest opinion shall be made in writing and shall set forth and include all pertinent facts and relevant documents....”

Please clarify. Thank you.

Pam

Alphermeia “Pam” Martin
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