

Frigo, Victoria (COE)

From: Centorino, Joseph (COE)
Sent: Wednesday, February 06, 2013 2:19 PM
To: Gort, Wilfredo (Commissioner) (wgort@miamigov.com)
Cc: Castaneda, Frank (FCastaneda@miamigov.com); Mensah, George; Maria J Chiaro (mjchiaro@me.com)
Subject: INQ - Commissioner Wilfredo Gort (CAMACOL trip)

Commissioner Gort:

You have inquired regarding whether it would be permissible under the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance for you to accept a trip to Turkey offered to you by the Latin Chamber of Commerce (CAMACOL) in connection with its upcoming business development mission to that country.

It is my understanding that CAMACOL has a pending contract with the City of Miami under the city's Commercial Façade Treatment/Code Enforcement program, which was originally authorized by the Miami City Commission through Resolution #R-09-0295 and thereafter renewed, most recently late last year. The contract is a grant agreement whereby CAMACOL is the recipient of Community Development Block Grant monies awarded through the City to qualified entities.

Because CAMACOL has an existing contract with the City of Miami, this matter falls within the provisions of Section 2-11.1(w) of the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance. Pursuant to the latter provision, no official or employee of the City of Miami "...shall accept, directly or indirectly, any travel expenses, including, but not limited to, transportation, lodging, meals, registration fees and incidentals" from any City "contractor, vendor, service provider, bidder or proposer..." The requirements of this section may be waived by a majority vote of the Miami City Commission.

In addition, Section 2-613 of the Miami Code of Ordinances, which is also enforceable by the County Ethics Commission, is relevant to this issue. The latter provision provides that "Every officer, official or employee of the city, including every member of any board, commission or agency of the city, is expressly prohibited from accepting, directly or indirectly, from any person, company, firm or corporation to which any purchase order or contract is or might be awarded, any rebate, gift, money or anything of value whatsoever, except where given for the use and benefit of the city." There is no waiver provision in the latter section.

Both of the above provision need to be considered in connection with your request.

First, under the County Ethics Ordinance, because CAMACOL is a city contractor, you may not accept the trip or any expenses in connection with that trip from CAMACOL unless the City Commission affirmatively votes to waive the prohibitions contained in Section 2-11.1(w).

Second, even if the City Commission were to vote for such a waiver, you would be permitted to accept the trip only if it were "given for the use and benefit of the city." My review of the invitation from CAMACOL indicates that, while there may be some public sector aspect to the trip, the primary purpose of the trip is private business development on behalf of the members of CAMACOL. For you to accept such a benefit, you would need to demonstrate that it was given to you "for the use and benefit of the city." It would be helpful to that end if the City Commission, in granting a waiver, were to explicitly note any public benefits that would inure to the City from the trip.

Accordingly, it is my opinion that you may not accept the proffered trip unless it were both authorized through a waiver voted upon by a majority of the Miami City Commission AND it were demonstrated that it served a clear public purpose

that benefitted the City of Miami. In the event that you wish to pursue approval of this benefit, I suggest that you confer closely with your City Attorney and with my office regarding whether the applicable conditions have been met.

Additionally, in the event that you were to accept this trip under the aforesaid circumstances, you would be required to report it as a gift under Section 2-11.1(e)(4).

Sincerely,
Joe Centorino

Joseph M. Centorino

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