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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Monday, January 05, 2015 11:57 AM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** Victoria Mendez, City Attorney, City of Miami (Gifts-tickets) INQ 14-289

INQ 14-289

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**From:** Ramos, Miriam S. (COE)  
**Sent:** Wednesday, December 31, 2014 10:36 AM  
**To:** Diaz-Greco, Gilma M. (COE)  
**Subject:** FW: City of Miami. New Year's Eve tickets.

*Miriam S. Ramos, Esq.*  
Deputy General Counsel



Miami-Dade Commission on Ethics and Public Trust  
19 W. Flagler Street, Suite 820  
Miami, FL 33130  
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**From:** Ramos, Miriam S. (COE)  
**Sent:** Wednesday, December 31, 2014 10:36 AM  
**To:** 'Mendez, Victoria'  
**Cc:** Murawski, Michael P. (COE); Min, Barnaby; Wysong, George; Haber, Matthew S.; Suarez-Rivas, Rafael; Centorino, Joseph (COE)  
**Subject:** RE: City of Miami. New Year's Eve tickets.

The co-sponsorship arguably would make it is easier to articulate that attendance is in the individual's official capacity.

We agree that your analysis in the 3<sup>rd</sup> paragraph is consistent with the County code.

Sincerely,

*Miriam S. Ramos, Esq.*  
Deputy General Counsel



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**From:** Mendez, Victoria [<mailto:VMendez@miamigov.com>]

**Sent:** Wednesday, December 31, 2014 12:41 AM

**To:** Ramos, Miriam S. (COE)

**Cc:** Murawski, Michael P. (COE); Min, Barnaby; Wysong, George; Haber, Matthew S.; Suarez-Rivas, Rafael; Centorino, Joseph (COE)

**Subject:** Re: City of Miami. New Year's Eve tickets.

Thank you again for this opinion. This will be very helpful in assisting us with strict vendor or contract relationships on regular private affairs at a city venue. Since we wrote to you yesterday we have discovered that the city is a co sponsor of this event paying through its various agencies (I.e. Bayfront, Miami Sports and Exhibition, etc. ) in excess of \$400,000 in in kind and monetary donations to this event. The promoter has a use agreement for the park and a location agreement. The city is not making money on the use or location agreements not on any ticket sales since it is a free event to the public.

Therefore, we wanted to clarify that for the record and the co-sponsorship by the City allows for the city officials to have direct participation in the event more so than a regular private type event at a city park.

With that said, if the officials or employees associated with the trust or city are going in their official capacity they need not report any VIP type ticket within the 50 tickets allotted. But if an official is escorted by two family members who receive tickets from the 1000 VIP block of tickets that may be valued at \$105 per VIP ticket (this is to give an easy sample figure though the ticket has no face value that we know of yet) then the official or employee would need to either 1) disclose the two extra tickets or 2) may pay down to the promoter \$5 off each ticket, thus not triggering a reporting requirement since each ticket is under \$100). Please advise if you agree.

Thank you again.

Sent from my iPhone

On Dec 30, 2014, at 11:46 AM, "Ramos, Miriam S. (COE)" <[MSRAMOS@miamidade.gov](mailto:MSRAMOS@miamidade.gov)> wrote:

Good morning Victoria,

Mr. Centorino is out of the office on medical leave. Mr. Murawski answered this question, as posed by Mr. Haber, yesterday. I have attached Mr. Murawski's email for your review.

If we analyze the scenario under the County Code, we all seem to be in agreement as to cells A1/A2 and cells C1/C2. However, as to B1, the source does matter; a family member cannot receive one of the 50 VIP tickets as those are considered City property and thus, may only be used for official City business. B2 is correct (the elected official/employee/trust member must report a relative/friend's ticket) if the ticket is received directly from the promoter (i.e. the other 1000 VIP tickets). D1 is correct, an employee may accept one of the 50 tickets if he/she is attending in his or her official capacity. In that case, he/she need not disclose, as it is not a gift. If the employee receives one of the 1000 tickets, then he/she must disclose it.

Obviously, this analysis does not take into account the City Charter; I understand that your office has interpreted that provision as archaic. I refrain from opining on that issue.

Finally, in the case of elected officials, you will see that Mr. Murawski cited Sec. 112.3148, Florida Statutes, which prohibits reporting individuals from accepting gifts from City vendors. It is advisable that you address the implications of this section with the Florida Commission on Ethics to determine if the acceptance of a ticket by an elected official, given from an entity that is arguably a City vendor, is permissible under state law.

Sincerely,

*Miriam S. Ramos, Esq.*  
Deputy General Counsel

<image002.png>

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**From:** Mendez, Victoria [<mailto:VMendez@miamigov.com>]  
**Sent:** Tuesday, December 30, 2014 10:47 AM  
**To:** Centorino, Joseph (COE)  
**Cc:** Ramos, Miriam S. (COE); Murawski, Michael P. (COE); Min, Barnaby; Wysong, George; Haber, Matthew S.; Suarez-Rivas, Rafael  
**Subject:** City of Miami. New Year's Eve tickets.

Dear Mr. Centorino:

A promoter is sponsoring a New Year's concert with Pitbull at Bayfront Park through an agreement with the Bayfront Park Management Trust (the Trust). This agreement contains a clause entitled "Complimentary Tickets: Complimentary Tickets:" which grants fifty (50) VIP tickets to the Trust. It also states that the promoter will distribute one-thousand (1000) VIP tickets on its own. All VIP tickets are free-of-charge. General admission is free of charge. Yet there will be a special VIP section with food and drinks provided by the promoter and special seating by the stage provided by the promoter. The general public has no seating. There is no value to the VIP section per se.

As a preliminary matter, the Miami-Dade Commission on Ethics (COE) has opined in the past that items should be given a value whenever possible though none has been assigned to begin with. We conducted a Google search to estimate the potential value of these tickets. Excluding the value associated with parking, beverages, food, and other potential VIP perks, general admission tickets for an upcoming Pitbull concert in Nevada ranged in price from \$58.60 to \$217.70. "Official Platinum Seats" for this concert ranged from \$301.85 to \$541.33. Ticketmaster did not have information on a similar concert in Miami. See [http://www.ticketmaster.com/enrique-iglesias-pitbull-las-vegas-nevada-01-31-2015/exchange/2E004D5BA7B233A0?tm\\_link=edp\\_buytix](http://www.ticketmaster.com/enrique-iglesias-pitbull-las-vegas-nevada-01-31-2015/exchange/2E004D5BA7B233A0?tm_link=edp_buytix). COE opinions on gift disclosures include the value of food, beverages, and parking. Hence, it should be presumed that the VIP tickets have a value of more than \$100.

Concerning the Trust itself, certain members are non-City employees who serve on the Trust in a non-compensated, volunteer capacity. Two (2) members of the Trust, while also serving in a non-compensated, volunteer capacity as Trust members, are City and Miami-Dade County employees respectively. City Commission members may plan to attend the concert and that these commissioners may bring family members along.

Thus, there are two (2) primary questions that this office must answer: (1) who may accept these VIP tickets, and (2) who must report accepting these tickets with a gift disclosure.

There are four (4) scenarios that must be analyzed, which concerned the attendance of: (1) elected, City officials, (2) the family members of elected, City officials, (3) members of the Trust who are not employees of the City or Miami-Dade County, and (4) members of the Trust who are employees of the City or Miami-Dade County.

The source of the VIP tickets may or may not affect this analysis depending on the public purpose aspect. Specifically, we wondered whether the tickets came from the pool of fifty (50) VIP tickets granted to the Trust or they came from the

one-thousand (1000) VIP tickets distributed by the promoter, did the source affect the answer to the two (2) primary questions posed.

For the sake of simplicity, we created a table summarizing the final points that explained:

	(1) May Accept Tickets?	(2) Elected/employee/ Trust Member Must Report?
(A) Elected Officials	Yes	Not if “official business”
(B) Relative of Elected	Yes	Yes
(C) Non-Employee Trust Member	Yes	Not if “official business”
(D) Employee Trust Member	Yes	Yes

Section 2-613 of the City Code provides, “[e]very 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.” This section contains a clear exception for accepting items given for the City’s benefit. We concluded that this equates with a public benefit, which COE has linked to public purpose. This was the basis for the conclusion in column 1 of the table.

For cell A2: COE has issued guidelines which state “[a]ttendance at ‘official city business’ events generally does not require gift disclosure as long as the elected/appointed official is, in fact, performing some bona fide official function at the event (see generally, FSEC opinion 01-019).” See [http://ethics.miamidade.gov/library/Publications/public\\_benefits\\_revised3\\_12.pdf](http://ethics.miamidade.gov/library/Publications/public_benefits_revised3_12.pdf) at 7. Also, “[a]s previously discussed, if an elected official is attending a function as official city/county business, the value of the ticket or function is not considered a gift and therefore, the elected official is not required to disclose it as such.” *Id.* at 8. The COE has stated that “official city business” includes participating in a ribbon cutting, giving a speech, or leading the pledge of allegiance, etc. See [http://ethics.miamidade.gov/library/Publications/addendum\\_tickets.pdf](http://ethics.miamidade.gov/library/Publications/addendum_tickets.pdf)

If the elected officials or Trust members listed above attend the event, greet the citizens on stage or in the crowds and/or participate in the event, this "official city business" purpose is met. If they merely attend the event and just sit in their seats without participating, arguably then it is not met.

For cell B2: elected and appointed officials would be subject to reporting requirements for any tickets received on behalf of a family member. They would need to report.

For cell C2: the analysis for cell A2 was extended to include non-employee Trust members. Section 2-11.1(e)(4) of the Miami-Dade County Code requires disclosure of any gift having a value in excess of \$100. This requirement applies

to the Trust members as well, who would fall into the category of “advisory personnel” defined in section 2-11.1(b)(4). For the purposes of the County Code, a gift refers to the transfer of anything of economic value and its worth would include the ticket price as well as any associated benefit such as free event parking. COE has advised that “[u]nelected members, who serve without pay on [City] boards...in recognition of significant assistance to the local government” may be the recipients of tickets provided to the City under a public benefits clause. Hence, non-employee Trust members may accept the VIP tickets, but will likely need to make a gift disclosure unless they follow the example of the elected officials and participate in a ribbon cutting, giving a speech, or leading the pledge of allegiance, or some similar activity that makes their attendance “official City business.”

For cell D2: the consensus was that City and County employee Trust members are employees first and would be subject to the relevant reporting requirements. They can accept but must report.

On the final question of the source of the tickets, it was presumed that the “official City business” exception could apply to all tickets received, if the actions qualified as such. If not the reporting needs to be met as described above.

Please note that the Charter provision in section 4 of the City Charter does not apply since we have previously opined that the section is archaic referring to the City's old transportation system.

Thank you for your assistance on this matter. Please advise us as soon as possible if you agree so that we can advise our clients today.

Thank you.

Victoria Mendez

<mime-attachment>