




MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

Overtown Transit Village North
701 Northwest 1st Court · 8th Floor · Miami, Florida 33136
Phone: (305) 579-2594 · Facsimile: (305) 579-0273
Website: ethics.miamidade.gov

MEMORANDUM

TO: Bronwyn Stanford
Director
Animal Services Department

FROM: Jose J. Arrojo, Esq. 
Executive Director

SUBJECT: INQ 2023-38, Section 2-11.1 (g), Exploitation of Official Position,
Use of Public Funds

DATE: March 29, 2023

CC: COE Legal Staff

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and for requesting ethics guidance regarding the application of the County Ethics Code to your prospective use of public funds to purchase tickets to a gala.

Facts:

The Miami-Dade County Animal Services Department's mission is described as: saving the lives of abandoned animals in its care, protecting animals from cruelty, reuniting lost pets with their owners, protecting people and pets in our community from health-related issues, and ensuring the public's safety.

The Director advises that as part of its public safety charge, the Animal Services Department partners with County and municipal police departments on enforcement and animal cruelty matters.

The Director would like to use public funds to purchase a ticket to a gala. The Director will be attending the gala. The event ticket proceeds will be used to raise funds for a charitable organization as a fundraising mechanism.¹

The event is described as follows:

- South Florida Police Benevolent Association Law Enforcement Awards Gala

The South Florida Police Benevolent Association, Inc. (PBA) is not-for-profit labor organization and the certified collective bargaining agent for bargaining units comprised of County law enforcement and corrections officers, and municipal police officers employed by several cities.

At this annual event, the PBA honors county and municipal law enforcement officers.

Proceeds of the event tickets will benefit the Love Fund, Inc., a not-for-profit, 501(c)(3) charitable organization, that aids fallen police officers and their families and uses collected funds to help pay for the funerals of officers killed in the line of duty, education for the children of fallen officers and psychological counseling for officers and immediate family members impacted by the stress of the job.

Discussion

It is a fundamental concept of the law in Florida and elsewhere that public funds may not be expended for other than public purposes.² Consequently, the Ethics Commission has opined that public funds may only be expended for public purposes, otherwise, the expenditure could amount to exploitation of official position prohibited by the ethics code.³

¹ The request for ethics guidance also references the use of public funds to purchase tickets for two other recent galas *already attended* by the Director: Brunch for the Animals, for which proceeds of the event tickets benefitted the Humane Society of Greater Miami, Inc., a not-for-profit, 501(c)(3) charitable animal welfare organization that provides shelter, food, and veterinary care while dogs and cats wait on adoption and also offers programs and services to educate, inform, and inspire people to take responsible care of their pets and treat animals with kindness; and Pelican Party for which proceeds of the event tickets benefitted the Pelican Harbor Seabird Station, Inc., a not-for-profit 501(c)(3) charity that seeks to conserve the area's wildlife through wildlife rescue, rehabilitation, release, education and research. Honorees at the latter event included the County Mayor and the Director of the County Parks, Recreation, and Open Spaces Department.

See generally Section 2-1074(y), Miami-Dade Code (The Ethics Commission is authorized to provide opinions regarding the applicability or interpretation of any provision in the Ethics Code to the requesting person's *prospective* conduct.)

² Markham v. State, 298 So. 2d 210 (Fla. 1st DCA 1974)

³ *See generally* INQ 14-78 (Expenditure of public funds must be for a legitimate public purpose, otherwise, it could amount to exploitation of official position.); *See also* Linscott v. Orange County Industrial Development Authority v. State, 443 So.2d 97 (Fla. 1983) (Expenditure of public funds, if neither taxing power nor pledge of credit is involved, must be for public purpose.)

This foundational prohibition on the use of public resources is codified in the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (County Ethics Code) at Section 2-11.1(g), Exploitation of official position prohibited, that provides as follows:

No person included in the terms defined in subsection (b)(1) through (6) and (b)(13) [county and municipal elected officials, board members, employees, and contract staff] shall use or attempt to use his or her official position to secure special privileges or exemptions for himself or herself or others except as may be specifically permitted by other ordinances and resolutions previously ordained or adopted or hereafter ordained or adopted by the Board of County Commissioners.

In prior opinions, the Ethics Commission has opined that the use of public funds to purchase tickets to galas may be appropriate if the official's attendance at the function is sufficiently related to his or her public duties.⁴ Also, if the gala tickets are essentially a fundraising mechanism for a charitable organization, then the use of public funds to purchase the tickets as well as the corollary attendance by a public official is appropriate.⁵

Conversely, the Ethics Commission has opined that the use of public funds may not be used to purchase tickets to events unrelated to an official's duties or a charitable organization. For example, the use of public funds to attend a partisan political luncheon or event would constitute exploitation of official position in violation of Section 2-11.1(g) of the County Ethics Code.⁶

Opinion:

Applying the reasoning of the previously issued ethics opinions cited above to the facts presented here, the requesting party may use public funds to purchase a ticket to a gala, where the proceeds of the ticket sales will be used to fund a charitable organization that aids fallen police officers and their families.

⁴ INQ 16-52 (A city official may attend the Miami-Dade County League of Cities Annual Gala using tickets that were purchased with funds from the official's municipal expense account, as the expense is sufficiently related to the official's duties.)

⁵ INQ 16-239 (A county official may donate public funds to a children's advocacy charitable organization, by purchasing luncheon tickets to the organization event, and attend the luncheon given the public purpose behind the event.)

⁶ INQ 11-39 (A municipal official may not use city funds to purchase a ticket to a partisan political event in Miami-Dade County, where local elections are nonpartisan, as the official would be securing a special benefit for himself/herself, and this would violate the County Ethics Code at Section 2-11.1(g), Exploitation of official position.); INQ 15-90 (A county official may not use public funds to pay for deserving senior citizens' attendance at a Republican Party sponsored dinner, as such would constitute an exploitation of official position because of the partisan nature of the event.)

Also, because of the Animal Services Department's enforcement charge, it partners with police departments on enforcement and animal cruelty matters, then there is a sufficient nexus between the attending official's public duties and the hosts and honoree police officers.

Consequently, the proposed use of public funds is for an appropriate public purpose.

This opinion is limited to the facts as you presented them to the Commission on Ethics, is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. While there may be references to state statutes, questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

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 Ethics Commission 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.