

MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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July 27, 2023

Via email only to expedite delivery:
LauraDominguez@miamibeachfl.gov

Honorable Laura Dominguez
Miami Beach Commissioner
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: INQ 2023-91, Section 2-11.1(c), Miami-Dade Code, Purchase of General Obligations Bonds

Dear Commissioner Dominguez:

Thank you for contacting the Miami-Dade County Commission on Ethics and Public Trust and for requesting ethics guidance regarding the application of Section 2-11.1, Miami-Dade Code, (“County Ethics Code”) to your proposed purchase of Miami Beach General Obligation Bonds

Facts:

On or about July 6, 2023, the City of Miami Beach publicly announced a \$101,700,000 General Obligation Bond (GOB) offering. The proceeds of the sale of the municipal securities will be used to finance the cost of improving facilities for resiliency of arts and cultural institutions throughout the City of Miami Beach.

The bonds will be offered through three third party financial firms, Wells Fargo Securities, Estrada Hinojosa & Company, and Goldman Sachs & Company.

Laura Dominguez is a Miami Beach Commissioner and is desirous of participating in the GOB bond offering.

Issue:

Whether the general bar on municipal elected officials transacting business with their own government prohibits the purchase of bonds or municipal securities issued by the official's government or by third party financial underwriters.

Discussion:

As a preliminary matter, elected officials in Miami-Dade County and its municipalities are governed by the County Ethics Code, contained in Section 2-11.1 of the Miami-Dade Code (County Ethics Code) as well as their own municipal ethics and conflict of interest codes. Sections 2-446 through 2-462 of the Miami Beach Code (Beach Ethics Code) impose ethical standards of conduct for that city's elected officials.

Section 2-11.1(c)(1) of the County Ethics Code, provides that local elected officials in Miami-Dade County and its cities may not enter into any contract or transact any business, individually, through an immediate family member, or through a business owned by the official or the immediate family member, with their own government. However, there is a notable exception to the general bar contained in Section 2-11.1(c)(1) of the County Ethics Code.

Section 2-11.1(c)(5) of the County Ethics Code provides that the prohibition on transacting with one's own government shall not prohibit or make illegal the purchase of bonds, anticipation notes, or other securities that may be issued from time to time, by the official's government or through third party underwriters.

The Miami Beach Ethics Code contains similar prohibitions on officials transacting with their city but there is no specific exception for the purchase of municipal securities. However, Section 2-450(a)(1) of the Miami Beach Ethics Code provides that an if officer or employee of the city directly or indirectly has a contractual relationship with a business entity that is doing business with the city, and which relationship *is otherwise permissible under state and county ethics law*, then he or she shall file a sworn statement with the city clerk disclosing the nature of employment and commencement date of the contractual relationship and term of such relationship.¹

Consequently, with abundance of caution, an official in Miami Beach that is going to purchase municipal securities from a third-party offering agent, is advised to publicly disclose this permissible transaction in accord with that section.

¹ While this agency is not authorized to opine or interpret state statutes, it is notable that Sections 112.313(12)(i) and (j), Fla. Stat., provides that the prohibitions against doing business with one's agency may not apply when the public officer purchases in a private capacity goods or services, at a price and upon terms available to similarly situated members of the general public, from a business entity which is doing business with his or her agency; or when the public officer in a private capacity purchases goods or services from a business entity which is subject to the regulation of his or her agency where the price and terms of the transaction are available to similarly situated members of the general public and the officer makes full disclosure of the relationship to the agency head or governing body prior to the transaction.

Conclusion and Opinion:

There is an exception in the County Ethics Code to the general bar on an elected official transacting business with his or her government that allows you to purchase municipal securities from the City of Miami Beach or a third-party offering agent.

There does not appear to be a corresponding exception in the Miami Beach Ethics Code however there is a provision that allows officials to contract with a third party that is doing business with the city, if the transaction is otherwise permissible under state and county ethics laws, as long as the transaction is publicly disclosed.

Consequently, with an abundance of caution, as long as the purchase of the municipal securities is disclosed, then the same is permissible and would not violate the County or Miami Beach Ethics Codes.

This opinion is limited to facts as presented to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

Thank you again for consulting with the Ethics Commission and please do not hesitate to contact me should you require any additional assistance.

Sincerely,



Jose J. Arrojo, Esq.
Executive Director

Rafael A. Paz, Miami Beach City Attorney (RafaelPaz@miamibeachfl.gov)
All COE Legal Staff

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.