



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Jacob Achinah, Assistant Director
Miami-Dade Animal Services Department

FROM: Susannah Nesmith, Staff Attorney
Miami-Dade Commission on Ethics and Public Trust

SUBJECT: INQ 2024-139, Section 2-11.1(e), Gifts; Section 2-11.1(p) Recommending Professional Services.

DATE: August 12, 2024

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding a donation that has been offered to the Animal Services Department (“ASD”).

Facts

You are an assistant director at ASD. You stated that a donor has generously offered to donate \$50,000 to build a canopy-style shade sail to protect the animals when they are outside. However, the stipulation attached to the donation requests that ASD match the donation with another \$50,000 in County funds to complete the project. Additionally, the donor wishes to involve his or her contractor/vendor of choice for the installation.

Issue

Whether the Miami-Dade Conflict of Interest and Code of Ethics Ordinance (“Ethics Code”) permits you to accept this donation with the current restrictions the donor has requested, to wit: the County will provide half of the cost of the proposed project and will engage a contractor of the donor’s choosing.

Analysis

The Ethics Code defines gifts as “the transfer of anything of economic value” and specifically prohibits employees from soliciting or accepting gifts in exchange for “an official public action taken, or to be taken, or which could be taken.” Section 2-11.1(e)(1), Ethics Code.

The Ethics Commission has recognized that private donations can be properly relied upon to support essential government functions and to promote government-sponsored community programs and charitable causes and events which clearly serve a public purpose, including feeding or aiding those in need. *See* generally RQO 02-70; INQ 20-134; INQ 19-124. However, donations of this type cannot be accepted when they are given with the expectation or requirement of a specific government action. *See* Section 2-11.1(e)(3)(a). *See also* INQ 2024-43 (finding that ASD was not permitted to accept a donation from an ASD employee that required the department to engage a specific dog trainer to work with dogs in the shelters).

Additionally, Section 2-11.1(p) prohibits County employees from recommending “any ... person or firm, professional or otherwise, to assist in any transaction involving the County or any of its agencies.” For ASD to retain the specific contractor the donor has requested, you or another ASD employee would have to bypass the County’s procurement rules to recommend the specified contractor, in violation of this section of the Ethics Code. *See* INQ 19-124 (finding that a municipal commissioner could not obtain donations for a City event and then recommend that the City use those donations to hire a specific person – his campaign manager – to staff the event).

Opinion

Based on the facts presented here and discussed above, the donor’s proposal that she or he provide ASD \$50,000 with a requirement that the department match that donation and also hire a specific contractor to install shade sails is not permitted because of the prohibitions contained in Sections 2-11.1(e) and (p) of the Ethics Code.

This opinion is based on the facts presented. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney.

This opinion is limited to the facts as presented to the Commission on Ethics and to an interpretation of the County Ethics Code only. For an opinion regarding Florida ethics law, please contact the Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, FL 32317, phone number (850) 488-7864, <https://ethics.state.fl.us/>.

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 Commission on Ethics 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 this is an informal opinion, 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.