



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Indira Rajkumar-Futch  
PHCD Procurement Contracting Manager  
Miami-Dade County Public Housing and Community Development (PCHD)

**FROM:** Loressa Felix, General Counsel  
Commission on Ethics and Public Trust

**SUBJECT:** INQ 2024-14, Section 2-11.1(q), County Ethics Code, Two-Year Rule

**DATE:** January 19, 2024

**CC:** All COE Legal Staff

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding the limitations of former County employees within two years of his/her separation from Miami-Dade County.

Facts:

You are currently employed as a PCHD Procurement Contracting Manager. As part of your duties, you are tasked with the review of proposals submitted by entities in response to solicitations advertised by your department as part of the department's competitive selection process.

You are currently reviewing materials within respondent proposals and noted two individuals which are former PCHD directors, recently separated from the County in the last year. One individual is listed as a member of a respondent's presentation team who will be participating in the oral presentation before the department/committee and the other is listed generally within the company's proposal materials.

You inquire as to the general prohibitions that apply to former employees that have recently separated from the County within the last two years.

Analysis and Opinion:

Section 2-11.1(q) of the Miami-Dade County Ethics Code (Ethics Code) or the "Two-Year Rule", prohibits former County employees from "lobbying" the County for a period of two years following separation.

Specifically, this section prohibits a County employee, for a period of two years after his or her County service has ceased, from:

...lobby[ing] any county officer, department personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid request for ruling, or other determination, contract, claim, controversy, charge accusation, arrest or other particular subject matter in which Miami-Dade County or one of its agencies or instrumentalities is a part or has any interest whatever, direct or indirect.

The post-employment lobbying activity prohibitions contained in Section 2-11.1 (q) of the Ethics Code are more expansive than those found under the general lobbying ordinance. *See* INQ 21-05, INQ 21-123, and INQ 22-61. The Two-Year Rule includes advocating for actions or decisions that may be made at the sole discretion of *any* County personnel. *See* RQO 12-09; RQO 13-07.

Accordingly, former County employees may not attempt to persuade County staff, whether in person or by written communication, to take a particular course of action. These actions are considered lobbying and are prohibited. *See* RQO 02-139 and INQ 21-05.

Moreover, former County employees are prohibited from engaging in contact with the County that would result in influencing the County's decision-making on behalf of the former employee's current employer. As such, **within the two-year period covered by the Two-Year Rule, the former County or municipal employee is prohibited from arranging or participating in any meetings, negotiations, oral presentations, or other discussions directly with County or municipal officials or staff for the purpose of influencing the County or municipal elected official, staff, or employee to take any type of official action, decision, or recommendation.** *See* INQ 16-151 (citing RQO 04-33, RQO 02-139). Public identification as part of a *lobbying team* and *attendance* at a meeting with a current public official or employee of the former public employer as a part of a lobbying team would likely run afoul of this prohibition. *See* C21-11-05 Public Report and Final Order (former Director of the Miami-Dade Department of Transportation and Public Works violated the Two-Year Rule when she attended a private meeting with a County Commissioner at which a colleague at her new employer lobbied the Commissioner); RQO 12-09 (former Director of the City of Miami Beach Office of Capital Improvement Projects may not arrange or participate in meetings with City of Miami Beach officials or staff for the purpose of influencing an official decision); RQO 04-34 (the former Director of the Miami-Dade Office of Public Transportation Management working for a private engineering firm should not be publicly identified as part of his employer's lobbying team to the County or attend meetings with the County where covered activities occurred). Thus, the Commission on Ethics has advised former County employees to remove themselves from discussions and meetings where their presence would give the current employer an advantage. *See* INQ 16-128.

Former County employees are however allowed under Subsection (q) to share institutional knowledge regarding their former employer's procedures with their new clients, and to provide guidance to their clients or employers regarding interactions with the County. *See* INQ 19-75, INQ 20-63 and INQ 21-02. Direct meetings and contacts between the former employee and County personnel are also permissible *as long as there is no advocacy* involved in the interactions and the employee or other attendees are not seeking to influence County personnel. *See* INQ 20-63 and INQ 21-123.

Additionally, a former County employee may engage in interactions with County staff which are ministerial in nature, such as filing/submitting permit applications, confirming receipt of permit applications, obtaining documents, asking a procedural question, or requesting information about a permit. *See* INQ 16-46 citing RQO 04-33. However, any attempt to persuade County staff, whether in person or by written communication, to take a particular course of action or to make a determination, is considered lobbying. *See id* citing RQO 02-139.

In RQO 12-09, the Miami-Dade Commission on Ethics further explained the parameters of the prohibition with respect to allowable meetings with County staff as follows:

These meetings must be held for informational purposes only and not for the purpose of influencing any recommendations or other actions on the project. You are prohibited from arranging and/or *participating in meetings* with City [County] officers and staff... if the meetings are convened for the purpose of influencing elected officers and/or City [County] employees to take an official action or make an official decision. (Emphasis added.)

Former employees are also prohibited from making presentations before County selection committees, boards and agencies, the Board of County Commissioners and its committees and subcommittees. This prohibition is broad and covers any activity where you would be publicly identified as part of a lobbying team. *See* INQ 21-02 and INQ 21-123; *see also* RQO 04-34 (citing RQO 01-38, where the Commission on Ethics opined that a former County employee could not engage in such activities but was not prohibited from attending quasi-judicial hearings and County Commission meetings and from providing administrative support as long as he was not publicly identified as a member of the lobbying team). Additionally, the Commission on Ethics **permitted a former employee to include his title, name, and resume in his company's proposal for evaluation and final determination as long as he did not make presentations to a selection committee or board or influence County staff to take official action.** *See* INQ 12-193.

Lastly, it is worth noting that former employees are prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of his former County position to derive a personal benefit either to himself or his client. *See* County Ethics Code § 2-11.1(h); INQ 17-181 and INQ 16-46.

Consequently, a former County employee ***may*** use his/her name, title, and resume for inclusion within a proposal sent by his/her new employer for evaluation and final determination. *See* INQ 12-193. However, a former County employee ***may not*** participate in oral presentations, as such meetings are convened for the purpose of influencing County employees or selection committees to take an official action or make an official procurement decision. *See* INQ 16-151. Former employees are cautioned against engaging in any action that might be perceived as advocating or seeking to influence County elected officials or personnel as this would be a violation of the County's Two-Year rule.

This opinion is limited to the facts as you presented them 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.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

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.