



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Dr. Galen Treuer, Resilience Coordinator 2
Regulatory and Economic Resources Department (RER)

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

SUBJECT: INQ 2024-35, Section 2-11.1(j), Outside Employment

DATE: February 24, 2024

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding your participation on ad hoc evaluation panels convened by the Miami-Dade Innovation Authority.

Background:

You are the Climate Tech and Economic Innovation Manager in the Office of Economic Innovation and Development for the Miami-Dade County Regulatory and Economic Resources Department (“RER”). You serve as an advisor to the Director of RER and the Office of the Mayor on policies related to climate change, resilience, economic development, technology innovation and support initiatives.

Your responsibilities include coordinating with the Office of the Mayor and economic development staff to set and pursue goals to further the County strategic plan, economic development strategy, and resilience strategies; liaising for emerging technology and democratic ownership models that support clean energy, water management, natural infrastructure, climate resilience, ESG investment, and ecosystems through sustainable finance, innovative data use, and regenerative or circular business models; liaising and supporting various workforce training and development programs to meet the current and future needs of the blue-green technology sector through partnerships with local agencies and educational institutions; and sharing the County’s efforts to achieve a just transition to a resilient future-ready economy through convenings, conversations, publications, and presentations.

You are also responsible for supporting incubators and accelerators that create opportunities for stakeholders including but not limited to county employees, government agencies, municipalities, startups, investors, established businesses, academics, nonprofits organizations, cultural creatives, and residents to collaborate on pilots and tests for new technologies and business models; importing ideas from other communities; and assessing and scaling successes.

You have been asked to participate in ad hoc evaluation panels reviewing applications received by the Public Innovation Challenge Program, which is administered by the Miami-Dade Innovation Authority (“MDIA”). Miami-Dade County partnered with private and non-profit donors to establish MDIA to accelerate the discovery and commercialization of technologies that can provide innovative solutions to critical public challenges. The Program is designed to use the Public Innovation Challenges to identify start-up or growth stage companies with existing products that are ready to be market tested as part of a pilot project with Miami-Dade County.

We consulted with Leigh-Ann Buchanan, the President and CEO of MDIA. She explained that your office is the contract manager for the grant that MDIA received from Miami-Dade County. Your service on an evaluation panel would be as a subject matter expert who would provide feedback to MDIA staff on particular challenge applicants. The panels you may serve do not make the ultimate selection of challenge grant winners. Rather, MDIA staff will take into consideration the feedback from the panel in narrowing down the applicants to the most promising ideas. The panels may meet in small groups to hear the companies’ pitches and to ask questions of the applicants. The panels may also include other subject matter experts from government entities and the private sector. Your particular area of expertise will meet the needs and requirements of Miami-Dade County, but Ms. Buchanan said that no individual government employee on any panel will be in a position to unilaterally choose or reject a challenge applicant. Staff will take the feedback from the entire panel and then evaluate the challenge applicants and make a final recommendation to the Board of Directors of MDIA. The Board will make the ultimate selection.

You will not be compensated for your role on any panel and your work on an MDIA panel will not have the effect of obligating Miami-Dade County funding.

Analysis and Opinion:

It is worth noting that you previously requested an ethics opinion regarding your volunteer service on committees that served two local non-profits that periodically partner with Miami-Dade County, both related to resiliency. *See* INQ 23-123. It was our opinion that your uncompensated service on both committees was not outside employment, because it fell within the scope of your responsibilities in the Office of Economic Innovation and Development. *Id.* (citing INQ 22-164 and INQ 13-236, both involving County employees who, as part of their County employment, served in an uncompensated role on boards related to the mission of their County departments).

Similarly, because your uncompensated service on ad hoc evaluation panels for MDIA is within the scope of your job responsibilities, your role on these panels would not be considered outside employment for which you would require supervisor approval.

Furthermore, while certain County personnel are required to “be diligent to ascertain whether persons required to register as lobbyists... have complied with the requirement,” pursuant to Section 2-11.1(s)(11)(a), Miami-Dade Ethics Code, the interactions between you and challenge applicants envisioned here would not entail lobbying for two reasons. First, while your role at RER and as an adviser to the Mayor may qualify as County personnel subject to the diligence requirement in certain circumstances, it would not meet those definitions during your service on an ad hoc advisory panel with no authority to make final selection decisions, no ability to obligate County funding and no role recommending to anyone within County government that a certain candidate receive funding. *See* Section 2-11.1(s)(1)(a) and (i)(2). Additionally, the interactions described between ad hoc panel members and challenge applicants would not qualify as lobbying activity because, even though challenge applicants may be attempting to obtain funding and to secure your support for their efforts, they are not attempting to influence County procurement decisions or actions because the MDIA funding will not come directly from the County. *See* Section 2-11.1(s)(1)(d).

You are cautioned, however, that your subsequent interactions with challenge applicants after the ad hoc panel has completed its work on a specific challenge may implicate the Ethics Code, and in particular the lobbyist ordinance, depending on the circumstances.

Additionally, County employees are prohibited from disclosing confidential information garnered or gained through their employment. *See* Section 2-11.1(h). Because your service on the panel is part of your County employment, you are cautioned that information you receive as part of your work on the ad hoc panel for MDIA may be considered confidential and covered by the above provision of the County 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.

Other conflicts may apply based on directives from the Mayor’s Office or the BCC or under state law. Questions regarding possible conflicts based on mayoral or BCC directives should be directed to the Mayor’s Office or the County Attorney’s Office. 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, <http://www.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 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 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.

