



MONTGOMERY COUNTY ETHICS COMMISSION

Susan Beard
Chair

Bruce Romer
Vice Chair

May 18, 2021

Waiver 21-05-006

The Department of Technology & Enterprise Business Solutions (TEBS) Chief Information Officer (CIO) and Director, Gail Roper, requests a waiver of the ethics requirement stated in section 19A-14 of the Montgomery County Public Ethics Law (Misuse of Prestige of Office) to allow Montgomery County Government (MCG) to engage in case studies with Microsoft and Zammo (a Microsoft partner).

Code Code section 19A-14 concerning endorsements and/or misuse of the prestige of office states: “(a) Unless expressly authorized by regulation or as may be permitted under Section 19A-16, a public employee must not intentionally use the prestige of office for private gain or the gain of another. Performing usual and customary constituent services, without additional compensation, is not prohibited by this subsection. (b) Unless expressly authorized by the Chief Administrative Officer (CAO), a person must not use an official County or agency title or insignia in connection with any private enterprise.”

The Ethics Commission has promulgated regulations concerning endorsements:

COMCOR 19A.14.01 ADDITIONAL GUIDANCE CONCERNING MISUSE OF PRESTIGE OF OFFICE; IMPROPER INFLUENCE. 19A.14.01.02 Policies

2.2 Endorsements. . . A public employee must not use or permit the use of any authority associated with public office in a manner that could reasonably be construed to imply that the employee’s agency or the County sanctions or endorses the employee’s personal activities or those of another. . .

Exceptions in the regulation on this type of endorsement include:

- a. In furtherance of statutory authority to promote products, services or enterprises; or
- b. As a result of documentation of compliance with agency requirements or standards or as the result of recognition for achievement given under an agency program of recognition for accomplishment in support of the agency’s mission.

According to the request, during the COVID-19 pandemic, the demand for COVID-related information and the need for income, food and rental support in Montgomery County climbed sharply. As residents dialed MCG call centers to get help, they often waited 10 minutes or

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longer just to connect with a live agent - just the first step in an often lengthy process. In response, TEBS leveraged the County's enterprise agreement with Microsoft to quickly implement "conversational AI" solutions (web and phone chatbots) that would improve the customer experience in the short and long term. With support from Microsoft and their partner Zammo, TEBS's solutions were able to be implemented quickly, at minimal costs and using few resources. Since implementation, the data has consistently shown a significant value realized by MCG. Since then, the CAO has approved nominations for TEBS, HHS and MC311 to receive two International Data Corporation Smart Cities North America awards and a NACo award for its innovative and agile response to the COVID-19 needs.

Both Zammo and Microsoft have requested MCG's engagement in case studies to demonstrate MCG's successful partnership with Microsoft and Zammo. The stories will highlight the County's speed to implementation and ability to leverage technology to quickly respond to changing needs, use of multi-lingual capabilities to remain inclusive, the integration of new Microsoft functionality for an improved customer experience, cost savings and more.

As case studies can sometimes be used to promote the vendor and since these case studies would use MCG insignia, concern was raised over the prospective misuse of office for private gain.

The Director of TEBS has requested permission for TEBS to engage in case studies with Microsoft and their partner Zammo to: (1) Publicly promote and substantiate positive work that directly achieves the County Executive's mission to make MCG more cost-effective and to deliver services more effectively and responsively; (2) Publicly promote and substantiate positive work that directly achieves TEBS's mission to increase digital equity, as aligned with the County Executive's mission to create a more equitable and inclusive County; (3) Advance innovation across the enterprise by exemplifying ways to improve how the County serves the public through innovation; (4) Offer a highly visible example of improved and more efficient government services to encourage learning and repeating the model in other departments; (5) Provide an example that other government entities can follow for their own innovation, which lends value to improving the overall level of government services; (6) Increase visibility with customers and the press through Microsoft web and social properties as other major government entities have done with the same vendors as demonstrated in the request for the waiver.

The case studies would be written in collaboration with MCG (TEBS, HHS, MC311 and the PIO), Microsoft, and Zammo and must be approved by MCG. Pursuant to the Enterprise Agreement between MCG and Microsoft, the County can withdraw its participation at any time. The request for a waiver expresses confidence that the engagement would not just endorse the County's vendors, but would significantly benefit Montgomery County by promoting and encouraging innovation, inclusivity, digital equity, elasticity and efficiency, all to better serve our residents through COVID and beyond.

The request submits that participation would be in the best interests of the County as it supports recognition for achievement in support of the County Executive's mission. Further, the request submits that granting the waiver will not give a public employee or class of employees an unfair economic advantage over other public employees or members of the public.

The County's Chief Administrative Officer has concurred in the request for a waiver. Pursuant to 19A-8 of the County Code, the Ethics Commission may grant a waiver of the prohibition of the public ethics law if it finds that:

(1) the best interests of the County would be served by granting the waiver; (2) the importance to the County of a public employee or class of employees performing official duties outweighs the actual or potential harm of any conflict of interest; and (3) granting the waiver will not give a public employee or class of employees an unfair economic advantage over other public employees or members of the public.

Upon review of the request and the concurrence of the Chief Administrative Officer, the Ethics Commission concludes that the restriction on endorsements in 19A-14 should be waived in connection with the collaborative endeavor with Microsoft and Zammo to create case studies associated with the County's successful partnership with Microsoft and Zammo in leveraging technology to improve the County's response to the Covid 19 crisis.

The Ethics Commission acknowledges the TEBS department head and CAO's support for the waiver and that the waiver will enhance not only the County's reputation for technological advancement to advance its citizens interests but help promote effective solutions during times of crisis. For these reasons, the Commission believes the waiver is in the best interests of the County. The Commission also recognizes that the importance of public employees working on the collaboration outweighs the harm associated with any possible appearance of endorsement of the activities of the two County contractors. Moreover, the Ethics Commission does not see how public employees would gain an unfair economic advantage over other employees or the public through the issuance of a waiver.

The waiver is issued in accordance with 19A-8(a) to the class of persons who are working on or assigned to work on the collaboration with Microsoft and Zammo to develop case studies. The waiver is limited to developing case studies concerning the specific steps taken in response to the Covid 19 crisis and does not extend to other work of the contractors with the County.

For the Commission:



Susan Beard, Chair