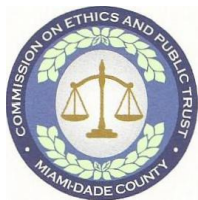


MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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September 15, 2023

Ralanda Arnold
Miami-Dade Community Action and Human Services Department
Overtown Transit Village North
701 Northwest 1st Court, 8th Floor
Miami, FL 33136
Ralanda.Arnold@miamidade.gov

Re: RQO 2023-01 issued to Ralanda Arnold (*See Prohibition on transacting business within the County*, Section 2-11.1(c), Miami-Dade County Conflict of Interest and Code of Ethics Ordinance)

Dear Ms. Arnold:

At a public hearing on September 15, 2023, the Miami-Dade Commission on Ethics and Public Trust (hereinafter, “Ethics Commission”) considered your request for an advisory ethics opinion and opined that you may not contract or otherwise do business with your employing County department, the Miami-Dade Community Action and Human Services Department (hereinafter, “CAHSD”), to participate in the Florida Power and Light Care to Share Program (hereinafter, “Care to Share Program”). This is because Sections 2-11.1(c)(1) and (2) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance (hereinafter, “County Ethics Code”) prohibit County employees from contracting with or otherwise doing business with their employing County departments where the employing County department enforces, oversees, or administers the contract or agreement.

You are employed by CAHSD as an Eligibility Interviewer and your job responsibilities include interviewing applicants for, and making qualification recommendations concerning, the Low-Income Home Energy Assistance Program. You are seeking to participate in the Care to Share Program, which was created by the Florida Power and Light Company (hereinafter, “FPL”) in 1994.¹ The Care to Share Program provides financial assistance – for up to twelve (12) months and up to \$500.00 – to customers of FPL who are experiencing crisis situations.² CAHSD has contracted with FPL to locally administer the Care to Share Program to provide emergency energy assistance, meaning the payment of FPL bills, to eligible residents of Miami-Dade County.

¹ *Care to Share*, <https://www.fpl.com/help/donate.html> (last visited Sept. 5, 2023).

² *Care to Share Program*, LIGHT BILL ASSISTANCE, https://www.miamidade.gov/global/service.page?Mduid_service=ser1504204216164378 (last visited Sept. 5, 2023).

The County Ethics Code generally prohibits County employees from doing business with the County. Section 2-11.1(c)(1) of the County Ethics Code provides:

No person included in the terms defined in subsection (b)(1) through (6)³ and in subsection (b)(9) shall enter into any contract or transact any business, except as provided in subsections (c)(2) through (c)(6) in which he or she or a member of his or her immediate family has a financial interest, direct or indirect, with Miami-Dade County or any person or agency acting for Miami-Dade County, and any such contract, agreement or business engagement entered in violation of this subsection shall render the transaction voidable.

However, the County Ethics Code has a limited exemption from this broad prohibition against contracting or otherwise doing business with the County. Specifically, Section 2-11.1(c)(2) of the County Ethics Code provides:

Notwithstanding any provision to the contrary herein, subsections (c) and (d) shall not be construed to prevent any employee as defined by subsection (b)(6) [excluding departmental personnel as defined by subsection (b)(5)] or his or her immediate family as defined by subsection (b)(9) from entering into any contract, individually or through a firm, corporation, partnership or business entity in which the employee or any member of his or her immediate family has a controlling financial interest, with Miami-Dade County or any person or agency acting for Miami-Dade County, as long as (1) entering into the contract would not interfere with the full and faithful discharge by the employee of his or her duties to the County, (2) the employee has not participated in determining the subject contract requirements or awarding the contract, and (3) the employee's job responsibilities and job description will not require him or her to be involved with the contract in any way, including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination or forbearance. *However, this limited exclusion shall not be construed to authorize an employee or his or her immediate family member to enter into a contract with Miami-Dade County or any person or agency acting for Miami-Dade County, if the employee works in the county department which will enforce, oversee or administer the subject contract.*

(emphasis added).

Consequently, a County employee is prohibited from doing business with the County by contracting or otherwise agreeing to do business with his employing department or agency regardless of whether or not his or her job duties involve administering the contract or agreement, unless an additional exception is otherwise provided for in the County Ethics Code. *See* County Ethics Code § 2-11.1(c)(2); RQO 05-17 (an employee of the then-extant Miami-Dade Housing

³ Section 2-11.1(b)(6) of the County Ethics Code defines the term "employees" and provides that the term refers to all personnel, except for those otherwise already defined in the County Ethics Code, who are employed by the County.

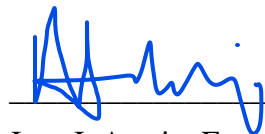
Agency could not contract with her employing department to participate in a mortgage program designed to support the development of affordable housing).

The County Ethics Code provides for specific additional exceptions to the prohibition against contracting or otherwise doing business with one's own employing County department, but these exceptions are limited to six specific situations: 1) paying taxes, paying special assessments, or paying for County-provided services; 2) purchasing County-issued bonds or other securities; 3) participating in public auctions of surplus County vehicles; 4) purchasing surplus County property; 5) applying to receive direct financial assistance or to participate in a program administered by PHCD; and 6) applying to participate in the single-family mortgage loan program sponsored by the Miami-Dade County Housing Finance Authority. *See* County Ethics Code § 2-11.1(c)(5). None of these exceptions address financial or welfare assistance social service programs administered by CAHSD.

Accordingly, in light of the facts presented, the applicable provisions of the County Ethics Code, and relevant precedent of this Commission, you cannot contract or otherwise do business with CAHSD, your employing County department, to participate in the Care to Share Program without giving rise to a prohibited conflict of interest pursuant to Section 2-11.1(c) because CAHSD administers and oversees the Care to Share Program. *See* County Ethics Code § 2-11.1(c)(2); RQO 05-17. Furthermore, none of the exceptions to the specific prohibition against doing business with one's employing County department apply to financial and welfare assistance social service programs administered or overseen by CAHSD. *See* County Ethics Code § 2-11.1(c)(5).

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and for requesting guidance on this issue. If you have any questions regarding this opinion, please contact the undersigned Staff Attorney, Nolen Andrew Bunker, at 305.579.2594.

Sincerely,



Jose J. Arrojo, Executive Director



Nolen Andrew Bunker, Staff Attorney

cc: All Commission on Ethics Legal Staff
Letah Parrish, Family and Community Services Division Director, Miami-Dade
Community Action and Human Services Department