



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Maria Paredes, Housing Specialist
Miami-Dade Public Housing and Community Development

Crystal Coleman, Division Director,
Miami-Dade Public Housing and Community Development

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

SUBJECT: INQ 2023-89, Section 2-11.1(c), Limitations on Contracting with the County.

DATE: July 24, 2023

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“COE”) and requesting our guidance regarding your ability to contract with the County’s Public Housing and Community Development Department (PHCD) as a vendor/landlord under the Workforce Housing Incentive Program (WHIP),¹ administered by PHCD.

¹ The Workforce Housing Incentive Program provides local property owners direct incentives to expand the existing supply of available workforce housing, providing immediate relief to renters and eligible homebuyers. A PHCD Operations/Administrative Analyst oversees the WHIP Conversion Component for renters and home buyers. Operations will be performed by a third-party vendor selected through the procurement process. WHIP works with landlords and unit owners with properties in Miami-Dade County that provide quality affordable and workforce housing to households at 30% - 140% Area Median Income (AMI). See <https://www.miamidade.gov/sites/global/government/mayor/building-blocks/homes-whip-faqs-for-landlords-owners.pdf>

Facts

You would like to contract with PHCD as a vendor/landlord for WHIP. You are employed by PHCD as a Housing Specialist. Your job duties primarily include assisting tenants with recertification and transfers within the Section 8 Moderate Rehabilitation program. Your PHCD job duties do not include any oversight or administration of WHIP, and you do not have any family members working for the County who administer or oversee the program. However, the program is administered by the same division in which you work and your direct supervisor, Crystal Coleman, is in charge of approving payments to WHIP grantees who are new landlords.

Notably, in 2013, you requested and obtained an ethics opinion regarding your ability to contract with the County, PHCD, as a Section 8 landlord. At the time, you were employed in the PHCD division that oversaw the Section 8 program and you were given guidance from this office that the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”) prohibited you from contracting with the division you worked for. *See* INQ 13-05.

Issue

Whether the County Ethics Code would prevent you from contracting with PHCD to participate in WHIP as a vendor/landlord.

Discussion and Opinion

Generally, sections 2-11.1 (c) and (d) of the County Ethics Code permit County employees to transact business with the County, so long as the contract in question does not interfere with the full and faithful discharge of the County employee’s duties, the County employee does not participate in negotiating or awarding the contract, and the County employee’s job duties will not require him or her to be involved with enforcing or overseeing the contract. However, the County Ethics Code prohibits a County employee from transacting business with the County department for which he or she works. Specifically,

[the limited exclusion from the general prohibition on County employees contracting with the County] 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.

County Ethics Code § 2-11.1(c)(2).

Section 2-11.1(c)(5)(5) provides a limited exception to the general restriction on County employees contracting with their own department. The exception, which is for PHCD employees who are applying to participate in housing assistance programs administered by PHCD, is limited to employees who do not work in the division that manages the program to which they are applying.

For example, the Commission on Ethics found in 2012 that a PHCD employee who worked in the Community Development Division was permitted to continue to contract with the County in the HCV program after the original Community Development Department was merged with the Public Housing Department because she had no authority or oversight over the HCV program and the two divisions did not share information. *See* RQO 12-06. Similarly, an employee of PHCD was permitted to contract with the Section 8 program, specifically because she worked in the Community Development Division, which is not the division which oversees the program. *See* H-INQ 17-43.

Because the division at PHCD where you work is also responsible for administering WHIP, you are prohibited from contracting with PCHD to receive a WHIP grant.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only. Based on directives from the department that employs you, or under state law, other conflicts may apply. If you have additional questions regarding possible conflicts based on your department's directives, contact your supervisor or the Mayor'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/>.

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.

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 these are informal opinions, covered parties who 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.