



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Katherine Nixon, Clinical Hospital Pharmacist, Jackson Health System/Miami-Dade County Public Health Trust

FROM: Nolen Andrew Bunker, Staff Attorney
Miami-Dade County Commission on Ethics and Public Trust

SUBJECT: INQ 2023-92, Section 2-11.1(c), Limitations on Contracting with the County

DATE: July 28, 2023

CC: COE Legal Staff; John Vanegas, Accountant 3, Public Housing and Community Development (“PHCD”); Simona Marlow, Senior HR Manager, PHCD

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 Emergency Rental Assistance Program (“ERAP”),¹ administered by PHCD.

Facts

You would like to contract with PHCD as a vendor/landlord under the ERAP, which is administered by PHCD. You are employed full-time by Jackson Health System (“JHS”)² as a Clinical Hospital Pharmacist. Your job duties primarily include dispensing medication and providing healthcare teams with pharmacological information for patient care. Your JHS job duties do not include any oversight or administration of the ERAP, and you do not have any family members working for the County who administer or oversee the program.

¹ The ERAP is a federally and locally funded program that provides rental assistance for up to eighteen (18) months for eligible tenants in arrears of rent payments due to financial hardships resulting from the COVID-19 pandemic, and that provides rental assistance for up to (3) months to eligible tenants who are unable to pay an increase in their rent. The ERAP is now closed. See <https://www.miamidade.gov/global/housing/emergency-rental-assistance-program.page>.

² Section 25A-1 of the Miami-Dade County Code establishes the Public Health Trust of Miami-Dade County (“PHT”) as an agency and instrumentality of Miami-Dade County. The PHT governs JHS.

Issue

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”) would prevent you from contracting with PHCD to participate in the ERAP 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 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).

Here, after reviewing the facts presented to us, we conclude that **you may contract with PHCD** to participate in the ERAP as a vendor/landlord. Your full-time employment as a Clinical Hospital Pharmacist with JHS will not require you to be involved in the administration of the ERAP. Accordingly, because your employment with JHS does not involve any administration or oversight of the ERAP, and you will never have occasion to review, approve, or administer ERAP applications, then your employment with JHS does not give rise to a conflict of interest. *See* County Ethics Code § 2-11.1(c)(2). Therefore, provided that your current or future job responsibilities with JHS do not require your involvement in any aspect of the ERAP, you may contract with PHCD to participate in the ERAP as a vendor/landlord. *See* INQ 23-02.

Additionally, you may not lobby the County in support of your participation in the ERAP. This means that you may not contact anyone within the County in an attempt to influence a decision about any contract that you are seeking with the County. *See* County Ethics Code § 2-11.1(m)(1).

Furthermore, the County Ethics Code prohibits County employees from exploiting their official position. This means that you may not use your County positions to secure special privileges or exemptions with respect to your participation as a vendor/landlord in any PHCD program. *See* County Ethics Code § 2-11.1(g).

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 JHS directives, contact your supervisor or the PHT. 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/>.

Please submit this opinion to the Public Housing and Community Development Department for inclusion in your file. The Commission on Ethics does not submit this memorandum on your behalf.

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 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.