



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Rosalyn Ratliff, VOCA Specialist
Miami-Dade Community Action and Human Services Department

Casandra Armstrong, VOCA Supervisor
Miami-Dade Community Action and Human Services Department

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

SUBJECT: INQ 2024-124, Section 2-11.1(c), Limitations on Contracting with the County, and Section 2-11.1(j), Conflicting Employment Prohibited.

DATE: July 2, 2024

CC: COE Legal Staff; John Vanegas, Miami-Dade Public Housing and Community Development Department (“PHCD”); Simona Marlow, PHCD

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) and requesting our guidance regarding your outside employment as a landlord and your ability to contract with the County’s Public Housing and Community Development Department (“PHCD”) as a landlord under the federally funded Section 8 Program.

Facts

You are employed by the Miami-Dade Community Action and Human Services Department (“CAHSD”) as a Victim of Crime Act Specialist. Your job duties primarily entail providing case management for victims of domestic violence. You advise that you own four rental units in Miami-Dade County and no property outside of the County. You further advise that you manage the properties when you are not required to work for CAHSD; your management of the properties does not require you to use any County resources; you will not come into contact with the same people in your outside employment and your County employment; and you have no immediate family members working for any Miami-Dade County departments.

You would like to contract with PHCD as a landlord under the federally funded Section 8 Program administered by PHCD. In your role at CAHSD, you have no oversight or administrative duties over the Section 8 program. You previously requested and received an informal opinion from the Ethics Commission finding that you were permitted to contract as a landlord with PHCD's Emergency Rental Assistance Program. *See* INQ 23-57.

Issue

Whether the Miami-Dade County Conflict of Interest and Code of Ethics ("County Ethics Code") would prevent you from working as a landlord or contracting with PHCD as a Section 8 landlord.

Analysis

This inquiry involves several sections of the Miami-Dade County Code of Ethics and Conflict of Interest Ordinance ("County Ethics Code"), each of which is analyzed in turn below:

A. Outside Employment

Sections 2-11.1(j) and (k) of the Miami-Dade County Ethics Code prohibit County employees from engaging in outside employment that would impair the County employee's independence of judgment in the performance of his/her official duties, thereby creating a conflict between the employee's public responsibilities and private interests. The County's Administrative Order 7-1 reiterates the general principle that County employees must conduct the public's business without even an appearance of conflicting loyalties: "Under no circumstances shall a County employee accept outside employment...where a real or apparent conflict of interest with one's official or public duties *is possible*." (Emphasis added).

Miami-Dade County employees are required to obtain approval from their department directors/supervisors prior to engaging in outside employment. *See* County Administrative Order 7-1. While directors/supervisors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment, the County's Administrative Order No. 7-1 gives a County department director/supervisor the discretion to deny outside employment if he or she finds, **at any time**, that the outside employment is contrary, detrimental, or adverse to the interest of the County and/or the employee's department. *See* RQO 16-02; RQO 00-10; INQ 23-15; INQ 12-49.

A County employee who owns or receives rental income from three or more rental property units, either personally or through a business that he or she owns, is engaged in outside employment. *See* RQO 06-48; INQ 21-06; INQ 17-117.

Outside employment is more likely to conflict with County employment "when the two pursuits overlap or are closely related." INQ 16-89 (citing RQO 12-11, INQ 12-159).

However, “a similarity between an employee’s County duties and his or her outside employment duties does not indicate, *by itself*, the existence of a conflict of interest.” INQ 22-07; *see also* INQ 18-54 (citing RQO 12-07; RQO 04-168; RQO 00-10) (concluding that outside employment with similar duties and functions can avoid conflict when abiding by certain limitations).

For instance, an administrative officer at CAHSD who referred clients to housing assistance programs was permitted to work as a ticket agent at Hard Rock Stadium because his outside employment had nothing to do with his work for the County and he would not come into contact with the same people or entities at the County and at his outside employment. *See* INQ 2024-38. Similarly, a home health care aide at CAHSD was permitted to engage in outside employment as a nurse at a nursing home because her work for the County did not involve any oversight or administration over nursing homes and she was able to perform the work when she was not required to work for the County. *See* INQ 20-88.

Here, you are permitted to engage in outside employment as a landlord because you are able to perform that work when you are not required to work for the County, your work with victims of domestic violence has nothing to do with the rental units you own, and you will not come into contact with the same people or entities in your County employment and your landlord work.

Note, this memorandum **does not give you permission to engage in outside employment; rather, you must obtain permission to engage in outside employment yearly from your department director.** Furthermore, given that you are a full-time County employee, **you are required to file an Outside Employment Statement¹ with the County’s Elections Department by noon on July 1st of each year** for the prior year’s outside employment regardless of whether you made a profit in the outside employment. *See* Section 2-11.1(k)(2), County Ethics Code.

B. Contracting with the County

Section 2-11.1(c)(2) of the County Ethics Code states:

Notwithstanding any provision to the contrary herein, subsection (c) and (d) shall not be construed to prevent any employee ... 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,

¹ You can find the required Outside Employment Statement form online at: <https://www.miamidade.gov/elections/library/forms/outside-employment-statement.pdf>.

- (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.

Given that neither you nor any member of your immediate family is employed by PHCD and that your job duties with the CAHSD do not involve any oversight or administration of the Section 8 Program, if PHCD determines that you are otherwise qualified, **you may contract with PHCD** as a Section 8 landlord. *See* Section 2-11(c)(2), County Ethics Code.

Please note that you may not use your County position to secure any special privileges or exemptions with respect to participating as a landlord in the Section 8 Program administered by PHCD. *See* County Ethics Code § 2-11.1(g).

Furthermore, you may not lobby the County to participate in the Section 8 Program. 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).

This opinion is limited to the facts as you presented them to the Ethics Commission and is limited to an interpretation of the County Ethics Code only. This opinion is not intended to interpret state laws. 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/>.

We appreciate your consulting with the Commission on Ethics in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us at (305) 579-2594 for additional guidance.

Please submit this opinion to the Public Housing and Community Development department to be included in your application. The Commission on Ethics does not submit this memorandum on your behalf.

SECs are informal ethics opinions provided by the legal staff of the Miami-Dade Commission on Ethics and Public Trust. SECs 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 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.