



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Janet Rodriguez, Immediate Family Member of Rafael Rodriguez
Miami-Dade Housing and Community Development Department

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

SUBJECT: INQ 2025-39; Section 2-11.1(c), Prohibition on transacting business within the County.

DATE: April 22, 2025

CC: COE Legal Staff; John Vanegas, Controller, Miami-Dade Housing and Community Development Department (“HCD”); Simona Marlow, Chief of Human Resources Division, HCD; Crystal Coleman, Section 8 HCV Division Director, HCD; Rafael Rodriguez, Eligibility Interviewer, HCD.

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“Ethics Commission”) to request our guidance regarding your ability to participate in a program administered by the Miami-Dade Housing and Community Development Department (“HCD”).

Facts

You are not employed by Miami-Dade County. However, your brother, Mr. Rafael Rodriguez, is employed by HCD as an Eligibility Interviewer. His job duties primarily involve interviewing applicants for the Moderate Rehabilitation Program¹ and determining their ability to participate in that program. Mr. Rodriguez advised that he is not the only Eligibility Interviewer helping to administer the Moderate Rehabilitation Program. He further acknowledged that, by virtue of his access to HCD’s computer systems, he can see whether an individual has applied for housing assistance. However, he affirmed that the computer system also tracks any change, modification, or approval of an application made by a user of the computer system.

¹ The Moderate Rehabilitation Program is a federally funded housing rental program that provides assistance to very low-income individual and families in privately-owned, rehabilitated, multifamily buildings. See *Section 8 Moderate Rehabilitation Rental Program*, <https://www.miamidade.gov/global/housing/section-8-moderate-rehabilitation.page> (last visited Apr. 21, 2025).

You advised that you are seeking to participate in the Moderate Rehabilitation Program. You advised that, aside from Mr. Rodriguez, you do not have any immediate family members who are employed by the County who administer or oversee the Moderate Rehabilitation Program. You are seeking to contract with HCD to participate in the Moderate Rehabilitation Program.

Issue

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”) would prevent you from contracting or otherwise doing business with HCD to participate in the Moderate Rehabilitation Program.

Discussion

Generally, sections 2-11.1(c) and (d) of the County Ethics Code permit County employees and their immediate family members 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. *See, e.g.,* RQO 00-13 (an employee of the Public Health Trust/Jackson Health System could contract with the then-extant Miami-Dade Housing Agency to provide Section 8 housing without giving rise to a prohibited conflict of interest).

However, the County Ethics Code generally prohibits a County employee and his or her immediate family members from transacting business with the County department where the County employee works. *See* County Ethics Code § 2-11.1(c)(2). Specifically,

except as provided in subsection (c)(6) below, . . . [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.

Id.

Nevertheless, the County Ethics Code provides that the following contracts or business transactions are permissible:

an application for direct assistance from the Miami-Dade County Department of Housing and Urban Development or an application to participate in a program administered by the Department of Special Housing has been submitted by an applicant who is a County person as defined in subsection (b) and who would but for this section be eligible for such assistance from said department

County Ethics Code § 2-11.1(c)(5)(5). This exception does not extend to County employees who seek to participate in a County program for which they participate in the administration. *See id.*

For employees who seek to participate in a County program that they help to administer, the County Ethics Code requires that the County employee seek an opinion from the County Ethics Commission regarding “appropriate mitigation measures.” County Ethics Code § 2-11.1(c)(6). Specifically, the employing County department’s mitigation plan must be “sufficient to abate the potential conflict of interest” and said plan must include the removal of the employee “from participation in the administration of the program as regards his or her application.” *Id.*

In light of the heightened need for transparency and a greater risk of losing the public’s trust when there is an expenditure of public funds, the Ethics Commission reviews such transactions that involve County employees and the immediate family members of County employees for any appearance of impropriety. *See* RQO 13-08 (providing guidance regarding appearances of impropriety); INQ 24-118 (reviewing HCD’s mitigation plan where the parents of an HCD employee sought to participate in an HCD program that their son helped to administer).

HCD has crafted and implemented a procedural memorandum, titled “Mitigation Measures for Employees and Family Members Accessing Department Housing Programs Policy,” that establishes specific mitigation measures to abate potential conflicts of interest and appearances of impropriety related to eligible HCD staff and their family members applying to participate in a program administered by HCD. Specifically, HCD’s policy provides that:

(2) Employees must seek advice from the Miami-Dade Commission on Ethics and Public Trust, **before** applying for any [HCD housing program, as to the appropriate mitigation measures.

....

(5) When an employee or immediate family member applicant is selected for review, the application must first be reviewed by a [HCD Assistant Director. The Assistant Director shall make an initial review of the application along with any related Ethics Commission advice, opinion, or decision, and then submit it to the appropriate program staff member within three days for processing of the application.

(6) Once program staff has determined eligibility, an Assistant Director must review the determination and concur with the decision in writing.

(7) Final approval of the decision is to be made in writing by the Director or the Director’s designee.

(emphasis in original).

Your brother, Mr. Rodriguez's, employment as an Eligibility Interviewer with HCD requires him to participate in the administration of the Moderate Rehabilitation Program because he assists HCD clients with the completion of applications for the program. However, HCD has delineated and implemented a conflict of interest mitigation policy to screen him from participation in the administration of your application for assistance. Furthermore, in discussion with Mr. Rodriguez's direct supervisor, Ms. Crystal Coleman – Section 8 HCV Division Director, she advised that any application or request to participate in the Moderate Rehabilitation Program that you submit will not be processed by your brother, Mr. Rodriguez. Rather, another HCD employee will be assigned to process your application or request. In discussion with Ms. Coleman, she further affirmed that the computer system that they use to process applications for the Moderate Rehabilitation Program tracks the actions users take in the system such that Mr. Rodriguez would not be able to effectuate any change, modification, or approval of your application. Accordingly, in light of HCD's policy screening employees from participating in the processing and administration of the applications for assistance of their immediate family members, and the explanations of Ms. Coleman and Mr. Rodriguez regarding how that policy will be implemented in your specific case, **we find that the mitigation plan is sufficient to abate the potential conflict of interest.** *See* County Ethics Code § 2-11.1(c)(5)(5); INQ 24-118 (finding HCD's mitigation plan sufficient to abate the potential conflict of interest of a Real Estate Officer whose parents were applying to participate in the Homebuyer Loan Program).

Opinion

After reviewing the facts presented to us, for the reasons discussed above we conclude that **the County Ethics Code does not prohibit you, Ms. Janet Rodriguez, from applying to participate in and contracting or otherwise doing business with HCD to participate in the Moderate Rehabilitation Program**, provided that: a) both you and HCD abide by the conflict mitigation plan adopted by HCD, b) your brother, Mr. Rodriguez, is otherwise removed from participation in the administration of the program as to your application, and c) you are otherwise eligible to participate in the program. *See* County Ethics Code § 2-11.1(c)(5)(5); INQ 24-118. **This opinion does not determine your eligibility to participate in the Moderate Rehabilitation Program, and it is HCD that has the authority to make that determination.**

Additionally, the County Ethics Code prohibits County employees from exploiting their official position. This means that Mr. Rodriguez may not use his County position to secure special privileges or exemptions with respect to your participation in the Moderate Rehabilitation Program or any other County program to which you are applying. *See* County Ethics Code § 2-11.1(g).

This opinion is limited to the facts as you presented them to the Ethics Commission regarding conflicts under Sections 2-11.1(c) and (d) of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only. If these facts change, or if there are any further questions, please contact the above-named Staff Attorney. Based on directives from the department that employs your brother, Mr. Rodriguez, or under state law, other conflicts may apply. If you have additional questions regarding possible conflicts based on your brother's County department directives, contact 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/>.

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

INQs are informal opinions provided by the legal staff after review and approval by the Executive Director and/or General Counsel. INQs deal with opinions previously addressed in public session by the Miami-Dade Commission on Ethics and Public Trust or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Ethics Commission 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 this opinion may be subject to investigation and a formal Complaint filed with the Ethics Commission.