



ETHICS COMMISSIONERS

Kerry E. Rosenthal, CHAIRPERSON
Gail A. Dotson, VICE CHAIRPERSON
Seymour Gelber
Dawn E. Addy
Brenda Rivera

ROBERT A. MEYERS
EXECUTIVE DIRECTOR

MICHAEL P. MURAWSKI
ADVOCATE

ARDYTH WALKER
STAFF GENERAL COUNSEL

October 25, 2007

Julie Edwards
Interim Executive Director
Community Action Agency
395 N.W. First Street
Suite 101
Miami, FL 33128

RE: REQUEST FOR ADVISORY OPINION RQO 07-47

Dear Mrs. Edwards:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on October 24, 2007 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding created by county staff providing support to the Community Human Service Foundation, Inc.

In your request, you advised the Commission that the Community Human Service Foundation was established in 1981 to provide financial and in-kind support to the programs of the Community Action Agency. The Foundation is a completely independent 501(c)(3) organization and was created by the Community Action Agency advisory board. The Foundation's by-laws provide that a deputy director of CAA shall serve as Executive Director of the Foundation. Under the by-laws, the Executive Director is responsible for handling the day-to day obligations of the Foundation. The current Executive Director (with assistance from other CAA staff) prepares agendas for Foundation meetings, administers the grant

process and performs other administrative duties required for the maintenance of the organization.

Among the CAA Foundation's programs is a grant program that provides funding to various CAA divisions for activities (such as staff recognition tokens, cultural events such as Hispanic Heritage Month and Black History Month and providing take-home books for Head Start participants) that are not covered in the departmental budget. The grants are generally between 500 and 5,000 dollars.

The CAA Foundation also applies for and receives grants from other agencies for CAA programs. CAA staff does not participate in the grant selection process or sign contracts on behalf of the Foundation. However, the Executive Director does distribute grant materials to staff and does answer requests for information regarding the grant process.

The Conflict of Interest and Code of Ethics ordinance permits CAA staff to provide staff support to the Foundation. However, the Executive Director and other CAA staff must make sure that they do not violate the requirements of 2-11.1(g) (misuse of official position) or 2-11.1(h) (disclosure of confidential information). Further, a memorandum of understanding or other legal agreement that delineates the responsibilities of CAA and the foundation for foundation activities might eliminate any potential appearances of a conflict of interest.

Section 2-11.1 (g) prohibits covered persons from using their official position to secure special benefits, privileges or exemptions for any person. Similarly, Section 2-11.1(h) prohibits covered persons from disclosing any confidential information acquired as a result of their official position to benefit another person or entity. Therefore, the Executive

Director may not use his official position to provide confidential information regarding the grant process or other Foundation activities or to use his position to advantage any person or agency.

Miami-Dade County requires all county entities to secure permission prior to receiving and expending funds. The CAA Foundation is not subject to this requirement since it is an independent 501(c)(3) organization and is not a county agency or instrumentality. However, since CAA provides staff support to the foundation and the funds are raised to provide support for CAA programs, CAA and the foundation may avoid any potential appearance of conflict problems by entering into a memorandum of understanding or other legal agreement that delineates the roles and responsibilities of CAA and the foundation regarding foundation activities.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 579-2594 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,



ROBERT MEYERS
Executive Director