

March 17, 2005

Irelene King-Allen  
Ethics Officer  
Office of Community and Economic Development  
140 West Flagler Street  
Suite 1000  
Miami, FL 33130

**RE: REQUEST FOR ADVISORY OPINION RQO 05-19  
Irelene King-Allen Conflict of Interest**

Dear Mrs. King-Allen:

The Commission on Ethics and Public Trust considered your request for an advisory opinion at its meeting on March 16, 2005 and rendered its opinion based on the facts stated in your letter.

You requested an opinion regarding whether OCED employees may serve as officers of non-profit agencies that receive CDBG funding from the department

In your request, you advised the Commission that OCED distributes federal CDBG funds to non-profit agencies and other community based organizations through an annual Request for Application (RFA) process. The Community Development division of OCED is responsible for preparing, distributing and evaluating the applications of community agencies seeking CDBG funds.

Ronald Sands, an OCED secretary for seven year, serves as a secretary of the Martin Luther King Economic Development Corporation

(MLKEDCO) and a trustee for the Foundation for Community Assistance and Leadership(FOCAL). MLK and FOCAL both receive CDBG funding from OCED.

Sands also attends community meetings and advises these agencies and other agencies in the community regarding potential county funding sources including OCED, the Miami-Dade Housing agency and the Empowerment Zone.

Until recently, Sands served as Secretary for the Community Development Division. In that capacity, Sands was responsible for maintaining the agency database on CDBG recipients, documenting staff evaluations of projects and applications, tracking expenditures of grant recipients and other duties.

The Commission found the Conflict of Interest and code of Ethics ordinance permits Sands to simultaneously serve as an officer of an agency receiving CDBG funds and an employee of OCED as long as Sands does not financially benefit from CDBG funds distributed to the organization.<sup>1</sup> However, Sands is prohibited from disclosing confidential information or using his position with the department to secure special privileges for MLKEDCO or FOCAL or any other entity. Section 2-11.1(g) provides that "no person...shall use or attempt to use his official position to secure special privileges or exemptions for themselves or others." Therefore, Sands may not use his position to help the organizations receive preference in funding or other benefits as a result of his position with OCED.

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<sup>1</sup> Federal law similarly provides that employees of units of local government who disburse CDBG funds have a prohibited conflict of interest only if the employee or a business owned by the employee or a family member has a financial interest in the CDBG funded activity or the employee will receive a financial benefit as a result of the CDBG funded activity. See 24 C.F. R. §570.611 (2004).

Further, Sands may not disclose confidential information to the board of MLKEDCO or FOCAL. Section 2-11.1(h) provides that no person... shall accept employment or engage in any business or professional activity which he might reasonably expect would require or induce him to disclose confidential information acquired by him by reason of his professional position, nor shall he in fact ever disclose confidential information garnered or gained through his official position with the county nor shall he ever disclose confidential information gained or garnered through his official position with the county nor shall he ever use such information, directly or indirectly, for his personal gain or benefit." Accordingly, while Sands is permitted to discuss general public information regarding sources of potential funding, he may not disclose information regarding internal processes, priorities or other internal information available to him solely as a result of his employment with OCED.

Finally, Sands is prohibited from appearing before any county board or agency seeking funding or other benefits for MLKEDCO and FOCAL. Section 2-11.1.(m)(1) provides that no person included in the terms defined in subsections (b)(1), (b)(5) and (b)(6) (commissioners, departmental personnel and employees) shall appear before any county board or agency and make a presentation on behalf of a third person with respect to any license, contract, certificate, ruling, decision, opinion, rate schedule, franchise or other benefit sought by the third person. Nor shall such person appear before any administrative tribunal as counsel or legal advisor to a party who seeks legal relief from the County or a county agency through the suit in question." Therefore, Sands is prohibited from appearing before any county board or agency on behalf of MLKEDCO or FOCAL. Sands is also prohibited from accepting compensation from MLKEDCO or FOCAL

from any dollars awarded by Miami-Dade County.

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 the opinion, please call the undersigned at (305) 579-2954 or Ardyth Walker, Staff General Counsel at (305) 350-0616.

Sincerely Yours,

ROBERT MEYERS  
Executive Director

cc: Bryan Finnie, Director, OCED  
Ronald Sands, OCED  
Shannon Summerset, Assistant County Attorney