



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

19 West Flagler Street, Suite 820 · Miami, Florida 33130

Phone: (305) 579-2594 · Facsimile: (305) 579-0273

Website: [ethics.miamidade.gov](http://ethics.miamidade.gov)

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### MEMORANDUM

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**TO:** Kimberly Smith, Police Complaint Officer, Miami-Dade Police Department

**FROM:** Gilma Diaz-Greco, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2021-134

**DATE:** 10-06-2021

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

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Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding Miami-Dade County employees transacting business with the County as vendor/landlords under the federally funded Emergency Rental Assistant Program (“ERAP”)<sup>1</sup> administered by the Miami-Dade County Public Housing and Community Development department (“PHCD”).

Facts:

You are a County employee working at the Miami-Dade County Police Department (“MDPD”) as a Police Complaint Officer. You would like to contract with Miami-Dade County as a vendor/landlord in the ERAP program administered by PHCD.

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<sup>1</sup> The Emergency Rental Assistance Program (ERAP) is a federally funded program that provides rental payment assistance for up to **12 months** for eligible tenants in arrears of rent payments due to financial hardships resulting from the COVID-19 pandemic. Landlords renting to ERAP recipients enter into agreements with Miami-Dade County which enumerating their duties and responsibilities as landlords to ERAP recipients.

## Issue

Whether the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”) would prevent you from contracting with the County as a vendor/landlord in the ERAP program administered by PHCD.

## Discussion and Opinion

A response to your inquiry involves several sections of the County Ethics Code which covers all County employees:

### A. Contracting with the County

The County Ethics Code at Sections 2-11.1 (c)(2) and (d) allow you to enter into a contract, individually or through a firm, with Miami-Dade County, as long as the contract does not interfere with the full and faithful discharge of your duties to the County.

This means that you shall not participate in determining the contract requirements or in awarding the contract and that none of your responsibilities and job descriptions shall require you to be involved in the contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination, or forbearance. In your case, this means that you may contract as an ERAP vendor/landlord because MDPD, the department that employs you, does not oversee or administer the program and none of your County job duties involve administration or oversight of the ERAP program. *See* County Ethics Code §§ 2-11.1 (c).

### B. Lobbying

Furthermore, you may not lobby the County to participate in the ERAP 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).

### C. Exploitation of Official Position

Finally, the County Ethics Code prohibits County employees from exploitation of their official position. In this instance, it means that you may not use your County position to secure special privileges or exemptions with respect to any County contract 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 Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. If the facts associated with your inquiry change, please contact us for additional guidance. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

*Please submit this memorandum to the Public Housing and Community Development Department. The Ethics Commission does not submit it 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 Ethics Commission 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.