



## MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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### MEMORANDUM

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**TO:** Casey Simpkins, Associate Auditor  
Miami-Dade County Audit and Management Services

**FROM:** Loressa Felix, Staff Attorney  
Commission on Ethics

**SUBJECT:** INQ 2022-166, Section 2-11.1(c), Limitations on Contracting with the County,  
County Conflict of Interest and Code of Ethics Ordinance

**DATE:** December 19, 2022

**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 your ability to contract with the County’s Public Housing and Community Development Department (“PHCD”) as a vendor/landlord under the Emergency Rental Assistance Program (“ERAP”),<sup>1</sup> administered by PHCD.

Background:

You are employed by Miami-Dade County Audit and Management Services (AMS) as an Associate Auditor. Your job duties include auditing County systems and contracts. You would like to contract with PHCD as a vendor/landlord under ERAP, which is administered by PHCD. Your AMS job duties do not include any oversight or administration of the ERAP program.

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<sup>1</sup> The ERAP is a federally and locally funded program that provides rental assistance for up to eighteen (18) months for eligible tenants in arrears of rent payments due to financial hardships resulting from the COVID-19 pandemic, and that provides rental assistance for up to (3) months to eligible tenants who are unable to pay an increase in their rent. See <https://www.miamidade.gov/global/housing/emergency-rental-assistance-program.page>.

Issue:

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

Analysis and Opinion:

Your inquiry involves several sections of the County Ethics Code which are analyzed below:

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 AMS, 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).

After reviewing the facts presented to us, we conclude that **you may contract with PHCD** to participate in the ERAP as a vendor/landlord. Therefore, provided that your current or future job responsibilities with AMS does not require your involvement in any aspect of the ERAP, you may contract with PHCD to participate in the ERAP as a vendor/landlord.

This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only. Based on directives from the department that employs you, or under state law, other conflicts may apply. If you have additional questions regarding possible conflicts based on your County

department directives, contact your respective department supervisors or 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, or <http://www.ethics.state.fl.us/>.

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

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

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.