



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Willi Gudat, Jr., immediate family member of Claudia Gudat, Police Officer, Miami-Dade County Police Department

FROM: Nolen Andrew Bunker, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-67, Section 2-11.1(c), Limitations on Contracting with the County

DATE: April 12, 2022

CC: COE Legal Staff; Claudia Gudat, Police Officer, Miami-Dade County Police Department; John Vanegas, Accountant 3, Public Housing and Community Development (“PHCD”); Simona Marlow, Senior HR Manager, PHCD

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust (“COE”) 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”),¹ administered by PHCD.

Facts

You and/or your father would like to contract with PHCD as a vendor/landlord under the ERAP, which is administered by PHCD. Your father, Willi Gudat, Sr., owns apartments located from 2161 to 2189 NE 167th Street, North Miami Beach 33162. You advised that you manage the properties on your father’s behalf, including all financial aspects of owning and maintaining the apartments.

Neither you nor your father are employed by Miami-Dade County. However, your daughter – Ms. Claudia Gudat – is currently employed by the Miami-Dade County Police Department (“MDPD”) as a Police Officer. Her job duties primarily include law enforcement. Your daughter’s MDPD job duties do not include any oversight or

¹ The ERAP is a federally 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. See <https://www.miamidade.gov/global/housing/emergency-rental-assistance-program.page>.

administration of the ERAP, and her current position does not and will never afford her the opportunity to do so.

Issue

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

Discussion and Opinion

Generally, sections 2-11.1 (c) and (d) of the County Ethics Code permit County employees 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. However, the County Ethics Code prohibits a County employee from transacting business with the County department for which he or she, or one of his or her immediate family members, works. Specifically,

[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.

County Ethics Code § 2-11.1(c)(2). The County Ethics Code defines immediate family as “spouse, domestic partner, parents, stepparents, **children** and stepchildren.” County Ethics Code § 2-11.1(b)(9) (emphasis added).

Here, after reviewing the facts presented to us, we conclude that **both you and your father² may contract with PHCD** to participate in the ERAP as a vendor/landlord. Your daughter’s employment as a Police Officer with MDPD will not require her to be involved in the administration of the ERAP. Accordingly, because your daughter’s employment for MDPD does not involve any administration or oversight of the ERAP, and she will never have occasion to review, approve, or administer ERAP applications, then her employment with MDPD does not give rise to a conflict of interest. *See* County Ethics Code § 2-11.1(c)(2). Therefore, provided that your daughter’s current or future job responsibilities with MDPD do not require her involvement in any aspect of the ERAP,

² Because grandparents are not “immediate family” as that term is defined by the County Ethics Code, the County Ethics Code does not limit your father, Mr. Gudat, Sr., from contracting with the County. *See* County Ethics Code § 2-11.1(b)(9).

you and/or your father may contract with PHCD to participate in the ERAP as a vendor/landlord.

Additionally, your daughter may not lobby the County in support of your participation in the ERAP. This means that she 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).

Furthermore, the County Ethics Code prohibits County employees from exploiting their official position. This means that your daughter may not use her County position to secure special privileges or exemptions with respect to your participation as a vendor/landlord in any PHCD program. *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 Miami-Dade Conflict of Interest and Code of Ethics Ordinance only. Based on directives from the department that employs your daughter, or under state law, other conflicts may apply. If you have additional questions regarding possible conflicts based on your daughter's County department directives, contact her MDPD supervisor 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, <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.

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 Commission on Ethics 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.