



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Erland Eliacin, Enrollment Specialist, Jackson Health System
Irma Eliacin, Mother of Erland Eliacin

FROM: Etta Akoni, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-68, Section 2-11.1(c), County Conflict of Interest and Code of Ethics Ordinance, Limitations on Contracting with the County

DATE: April 13, 2022

CC: COE; 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 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, Ms. Erland Eliacin, are employed by Jackson Health System (“Jackson”) as an Enrollment Specialist in the Uncompensated Care Programs. Your job duties include assisting uninsured patients sign up for Jackson’s internal health care card so that they can qualify for discounted health care services through Jackson, even without traditional health insurance. You would like to contract with PHCD as a vendor/landlord under the ERAP, which is administered by PHCD. The subject property that will be a part of the ERAP program is owned by Irma Eliacin, your mother. Pursuant to the executed Property Management Agreement dated February 27, 2019, you are the property manager of the subject property and collect 50% of all rental payments received for use of the property.

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>.

Your Jackson job duties do not include any oversight or administration of the ERAP program.

Ms. Irma Eliacin is the mother of Ms. Erland Eliacin. Ms. Irma Eliacin is not employed by Miami Dade County. Ms. Erland Eliacin is the only family member of Ms. Irma Eliacin who works for Miami Dade County

Issue

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

Discussion and Opinion

This inquiry involves several sections of the Miami-Dade County Ethics Code which are analyzed below:

A. Outside Employment

Sections 2-11.1(j) and (k) of the Miami-Dade County Ethics Code prohibit County employees from engaging in outside employment which would impair the County employee’s independence of judgment in the performance of his/her official duties thereby creating a conflict between the employee’s public duties and private interests.

The County’s Administrative Order 7-1 reiterates the general principle that County employees must conduct the public’s business without even an appearance of conflicting loyalties: “Under no circumstances shall a County employee accept outside employment...where a real or apparent conflict of interest with one’s official or public duties is possible.”

Miami-Dade County employees are required to obtain approval from their department directors prior to engaging in outside employment. *See* County’s Administrative Order 7-1. Directors may request an opinion from the Miami-Dade County Ethics Commission regarding conflicts of interest in outside employment. *See* INQ 19-101; INQ 13-28.

The County’s Administrative Order No. 7-1 gives a County department director the ultimate discretion to deny outside employment if he or she finds that it is contrary, detrimental, or adverse to the interest of the County and/or the employee’s department. *See* RQO 16-02; RQO 12-07; RQO 00-10; INQ 12-49; INQ 13-28; INQ14-104; INQ 15-22; INQ 16-121.

After reviewing the facts presented here, we find that your outside employment of managing rental property is not likely to cause conflicts of interest between your private interest and your public duties. This is because there is no overlap between your public duties as an Enrollment Specialist and your outside employment, as you will not be assisting the same clients, you will not use the same resources, and the work would be performed outside of your County hours.

Nevertheless, you must abide by certain limitations and cautions outlined below to avoid a conflict:

- You may not use County time or resources in your outside employment. *See* Section 2-11.1 (g), Miami-Dade County Ethics Code; INQ 19-123; INQ 20-43.
- You shall not engage in activities that relate in any way to your outside employment during regular business hours, including phone calls, or any other communication and/or use of County resources (including but not limited to phones, copiers, computers, fax machines, County vehicles, in connection with your outside employment, even after work). *See* Sections 2-11.1 (j) and (g), Miami-Dade County Ethics Code; AO 5-5, AO 7-1; INQ 05-29, and INQ 15-240.
- You are prohibited from disclosing and/or using any confidential and/or proprietary information acquired as a result of your County employment to derive a personal benefit or for the benefit of your client(s). *See* Section 2- 11.1(h), Miami-Dade County Ethics Code.
- You shall obtain permission to engage in outside employment on an annual basis by filing a Request for Outside Employment with your department director and shall file an Outside Employment Statement with the County’s Elections Department by noon on July 1st of each year. *See* Section 2-11.1(k)(2), Miami-Dade County Ethics Code.

B. Contracting with the County

Also as it relates to Ms. Erland Eliacin, 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. After reviewing the facts presented to us, we conclude that **you may contract with PHCD** to participate in the ERAP as a vendor/landlord. Your employment as an Enrollment Specialist with Jackson will not require you to be involved in the administration of the ERAP. Therefore, provided that your current or future job responsibilities with Jackson and/or Miami Dade County do not require your involvement in any aspect of the ERAP, you may contract with PHCD to participate in the ERAP as a vendor/landlord.

As it relates to Ms. Irma Eliacin, section 2-11.1(c)(2) of the County Ethics Code prohibits the immediate family members of a County employee from transacting business with the County department for which said County employee works. The County Ethics Code defines immediate family as “spouse, domestic partner, parents, stepparents, children and stepchildren.” County Ethics Code § 2-11.1(b)(9). After reviewing the facts presented to us, we conclude that **you may contract with PHCD** to participate in the ERAP as a vendor/landlord. Your daughter’s employment as an Enrollment Specialist with Jackson will not require her to be involved in the administration of the ERAP. Therefore, provided

that her current or future job responsibilities with Jackson and/or Miami Dade County do not require her involvement in any aspect of the ERAP, you may contract with PHCD to participate in the ERAP as a vendor/landlord.

C. Lobbying

Additionally, you, Ms. Erland Eliacin, may not lobby the County to participate in the ERAP. 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).

D. Exploitation of Official Position

Furthermore, the County Ethics Code prohibits County employees from exploiting their official position. This means that you, Ms. Erland Eliacin, may not use your County positions 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 you and/or Ms. Johnson, 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, <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.