# MEMORANDUM

Agenda Item No. 6(A)

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**TO:** Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners

**DATE:** March 16, 2004

**FROM:** Robert A. Ginsburg
County Attorney

**SUBJECT:** Ordinance relating to Conflict of Interest and Code of Ethics; travel expenses

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The accompanying ordinance was prepared and placed on the agenda at the request of Chairperson Barbara Carey-Shuler, Ed.D., and Commissioner Rebeca Sosa.

Robert A. Ginsburg
County Attorney

RAG/bw

# MEMORANDUM

**TO:** Honorable Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners

**DATE:** March 16, 2004

**FROM:** George M. Burgess
County Manager

**SUBJECT:** Ordinance Relating to Travel Expenses Paid By County Contractors or Vendors

The ordinance would prohibit County personnel from accepting travel expenses paid by vendors, contractors, etc. unless accepted by the Board of County Commissioners. It is our understanding that this ordinance would not apply to travel expenses paid by other governmental agencies, in accordance with contractual provisions, or by organizations of which the County is a member if the travel is related to that membership.

An analysis of all fiscal year 2002 Travel Request Forms was conducted and 501 travels were identified that were paid by outside funding sources. All 501 identified travel requests were individually evaluated, and only one was found to be covered by the ordinance. In that case, Hertz Rent-a-Car, which has a contract with the County through the airport, paid for a police detective to discuss rental car theft and fraud with rental car security representatives.

Based on this analysis, we estimate that there would be only a minimal fiscal impact on the County.

Fis00404

# MEMORANDUM
(Revised)

**TO:** Hon. Chairperson Barbara Carey-Shuler, Ed.D. and Members, Board of County Commissioners

**DATE:** March 16, 2004

**FROM:** Robert A. Ginsburg
County Attorney

**SUBJECT:** Agenda Item No. 6(A)

**Please note any items checked.**

_____ **"4-Day Rule" ("3-Day Rule" for committees) applicable if raised**

✓ **6 weeks required between first reading and public hearing**

_____ **4 weeks notification to municipal officials required prior to public hearing**

_____ **Decreases revenues or increases expenditures without balancing budget**

_____ **Budget required**

_____ **Statement of fiscal impact required**

_____ **Bid waiver requiring County Manager's written recommendation**

_____ **Ordinance creating a new board requires detailed County Manager's report for public hearing**

_____ **Housekeeping item (no policy decision required)**

_____ **No committee review**

Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 6(A)
3-16-04

ORDINANCE NO. _____

ORDINANCE RELATING TO CONFLICT OF INTEREST AND CODE OF ETHICS ORDINANCE; AMENDING SECTION 2-11.1 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA, TO PROVIDE THAT MAYOR, COUNTY COMMISSIONERS, DEPARTMENTAL PERSONNEL AND EMPLOYEES MAY NOT ACCEPT TRAVEL EXPENSES FROM COUNTY CONTRACTORS OR VENDORS; PROVIDING FOR WAIVER, SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA:**

Section 1. Section 2-11.1 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:[1]

**Section 2-11.1. Conflict of Interest and Code of Ethics Ordinance.**

* * *

>>(w) *Prohibition on acceptance of travel expenses from county vendors.* Notwithstanding any other provision of this section, no person included in subsections (b)(1)(Mayor and Commissioners), (b)(5)(departmental personnel) or (b)(6) (employees) shall accept, directly or indirectly, any travel expenses including, but not limited to, transportation, lodging, meals, registration fees and incidentals from any county contractor, vendor, service provider, bidder or proposer. The Board of County Commissioners may waive the requirements of this subsection by a majority vote of the Commission.<<

[1] Words stricken through and/or [[double bracketed]] shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

[[~~(w)~~]]>>(x)<<*Powers and jurisdiction of Ethics Commission.* The Ethics Commission shall be empowered to review, interpret, render advisory opinions and letters of instruction and enforce the Conflict of Interest and Code of Ethics Ordinance. Jurisdiction of the Ethics Commission shall automatically extend to Commissioners, autonomous personnel, quasi-judicial personnel, departmental personnel, employees, advisory personnel, immediate family, lobbyists as defined in subsection (b) and (s) who are required to comply with the Conflict of Interest and Code of Ethics Ordinance; and any other person required to comply with the Conflict of Interest and Code of Ethics Ordinance including, but not limited to, contractors and vendors. In the event that the Ethics Commission does not assume jurisdiction as provided in the preceding sentence, the Ethics Commission may refer the complaint to the State Attorney for appropriate action. Notwithstanding the foregoing, the Ethics Commission shall not have jurisdiction to consider an alleged violation of subsection (c) if the requirements of subsection (c) have been waived for a particular transaction as provided therein.

[[~~(x)~~]]>>(y)<<*Prohibition on participation in settlement negotiations.* Neither the Mayor, a County Commissioner nor any member of their staff shall participate in settlement negotiations of claims or lawsuits, including, but not limited to, contract scope or compensation adjustments involving the County without prior approval of the Board of County Commissioners.

[[~~(y)~~]]>>(z)<<*County Attorney's participation in contract adjustments.* County staff shall request the participation of the County Attorney's Office to provide legal advice regarding scope or compensation adjustments which increase by more than one million dollars ($1,000,000), the value of a construction contract or contract involving the purchase of goods or services.

[[~~(z)~~]]>>(aa)<<*Penalty.*

(1) *Proceeding before Ethics Commission.* A finding by the Ethics Commission that a person has violated this section shall subject said person to an admonition or public reprimand and/or a fine of two hundred and fifty dollars ($250.00) for the first violation and five hundred dollars ($500.00) for each subsequent violation.

(2) *Prosecution by State Attorney in State court.* Every person who is convicted of a violation of this section in State court shall be punished by a fine not to exceed five hundred dollars ($500.00) or imprisonment in the County jail for not more than thirty (30) days, or by both such fine and imprisonment.

Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as to form and legal sufficiency:

Prepared by:

GKS

Gerald K. Sanchez

Sponsored by Chairperson Barbara Carey-Shuler, Ed. D. , and Commissioner Rebeca Sosa

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