

# MEMORANDUM

Special Item No. 4



**TO:** Honorable Chairman Esteban L. Bovo, Jr.  
and Members, Board of County Commissioners

**DATE:** February 17, 2017

**FROM:** Abigail Price-Williams  
County Attorney

**SUBJECT:** Resolution directing the County Attorney's Office, upon receipt of written notice from the federal government of Miami-Dade County's ineligibility to receive federal funding or denial of federal funding on the basis of the County's immigration detainer policy, to take the appropriate legal steps to challenge such action

The accompanying resolution was prepared and placed on the agenda at the request of Prime Sponsor Commissioner Daniella Levine Cava.

  
\_\_\_\_\_  
Abigail Price-Williams   
County Attorney

APW/cp



# MEMORANDUM

(Revised)

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Please note any items checked.

- ☐ "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
- ☐ Statement of social equity required
- ☒ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Special Item No. 4  
2-17-17

RESOLUTION NO. \_\_\_\_\_

RESOLUTION DIRECTING THE COUNTY ATTORNEY'S OFFICE, UPON RECEIPT OF WRITTEN NOTICE FROM THE FEDERAL GOVERNMENT OF MIAMI-DADE COUNTY'S INELIGIBILITY TO RECEIVE FEDERAL FUNDING OR DENIAL OF FEDERAL FUNDING ON THE BASIS OF THE COUNTY'S IMMIGRATION DETAINER POLICY, TO TAKE THE APPROPRIATE LEGAL STEPS TO CHALLENGE SUCH ACTION

**WHEREAS**, on January 25, 2017, President Donald J. Trump signed an Executive Order entitled "Enhancing Public Safety in the Interior of the United States" ("Executive Order"); and

**WHEREAS**, the Executive Order provides that jurisdictions that willfully refuse to comply with 8 U.S.C. § 1373 will be designated as "sanctuary jurisdictions" and will not be eligible to receive federal grants, except as deemed necessary for law enforcement purposes; and

**WHEREAS**, the United States Department of Homeland Security, Immigration and Customs Enforcement ("ICE") issues immigration detainer requests to local criminal justice agencies, including the Miami-Dade County Corrections and Rehabilitation Department, to hold inmates for an additional period of time beyond when they would normally be released; and

**WHEREAS**, the federal government does not reimburse local criminal justice agencies for the cost of compliance with such ICE detainer requests, leaving local taxpayers to incur this cost; and

**WHEREAS**, on December 3, 2013, this Board adopted Resolution No. R-1008-13, which directed the Mayor or Mayor's designee to implement a policy whereby an ICE detainer request would be honored only if the federal government agreed to reimburse Miami-Dade County for the costs of detention and if the inmate that is the subject of the request has a previous conviction for a forcible felony or has a pending charge of a non-bondable offense; and

**WHEREAS**, in May 2016, the Department of Justice Office of the Inspector General released a report concerning "Allegations of Potential Violations of 8 U.S.C. § 1373 by Grant Recipients" ("OIG Report"); and

**WHEREAS**, the OIG Report identified Miami-Dade County as a jurisdiction which had placed limitations on cooperation with Immigration and Customs Enforcement in light of this Board's passage of Resolution No. R-1008-13; and

**WHEREAS**, the OIG Report noted that Resolution No. R-1008-13 and similar policies may be inconsistent with the intent of 8 U.S.C. § 1373; and

**WHEREAS**, Miami-Dade County currently receives hundreds of millions of dollars in federal grants and funding, in a wide range of areas; and

**WHEREAS**, Miami-Dade County policy established by Resolution No. R-1008-13 fully complies with 8 U.S.C. § 1373; and

**WHEREAS**, the Miami-Dade County Corrections and Rehabilitation Department has for many years cooperated and shared information and continues to cooperate and share information with federal and state agencies at booking and release for individuals in custody in compliance with 8 U.S.C. § 1373; and

**WHEREAS**, the terms “sanctuary jurisdiction”, “sanctuary city” and “sanctuary county” are not legally defined terms in federal or state law; and

**WHEREAS**, Miami-Dade County has never labeled itself or considered itself a “sanctuary jurisdiction”, “sanctuary city”, or “sanctuary county”; and

**WHEREAS**, Miami-Dade County will continue to comply with the United States Constitution; and

**WHEREAS**, this Board strongly objects to any action taken by the federal government which renders Miami-Dade County ineligible for federal grants or funding on the basis of its immigration detainer policy; and

**WHEREAS**, this Board believes that the Executive Order, or any other federal action which conditions the appropriation of federal funds on the County’s immigration detainer policy, is a violation of the United States Constitution,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board directs the County Attorney’s Office, upon receipt of written notice from the federal government of Miami-Dade County’s ineligibility to receive federal funding or denial of federal funding on the basis of the County’s immigration detainer policy, to take the appropriate legal steps to challenge such action.

The Prime Sponsor of the foregoing resolution is Commissioner Daniella Levine Cava.  
It was offered by Commissioner \_\_\_\_\_, who moved its adoption. The  
motion was seconded by Commissioner \_\_\_\_\_ and upon being put to a vote,  
the vote was as follows:

Esteban L. Bovo, Jr., Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Daniella Levine Cava
Jose "Pepe" Diaz	Sally A. Heyman
Barbara J. Jordan	Joe A. Martinez
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

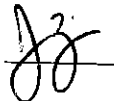
The Chairperson thereupon declared the resolution duly passed and adopted this 17<sup>th</sup> day of February, 2017. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this Resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.



Javier Zapata