



**CITY OF FORT LAUDERDALE  
City Commission Agenda Memo  
CONFERENCE AGENDA**

**# 13-0552**

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TO: Honorable Mayor and Members  
Fort Lauderdale City Commission

FROM: Harry A. Stewart, City Attorney

DATE: April 16, 2013

TITLE: City Manager's Request for Legal Interpretation of U.S. Dept. of Housing & Urban Development (HUD)'s 3/22/13 letter re City's HOPWA Agreement with Legal Aid of Broward County, Inc.

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Recommendation

I have interpreted HUD's letter to suggest that because the HOPWA Program Agreement is not an agreement drafted and required to be used by HUD, even though the terms and conditions are taken directly from its own regulations, they offer no opinion as to its contents. In sum, it appears that the terms of the agreement may be added and deleted as deemed proper by the drafter (i.e. the City of Fort Lauderdale). HUD follows this point by offering specific guidance concluding that removal of agreement terms does not render HOPWA regulations inapplicable and particular emphasis is made that pursuant to the City's agreement with HUD, the City, as the program sponsor, ensures that it will follow all HUD regulations.

It is therefore recommended that City staff evaluate all HOPWA program rules and regulations and determine the obligations related to monitoring and reporting HOPWA violations. Such requirements should be included in all future HOPWA Program Participation Agreements.

It is further recommended that in the event certain HOPWA program regulations are removed from the Participation Agreement with Legal Aid, the Mayor and City Commission should be advised of all potential risks and liabilities. The City's approval of such an agreement would be done at its own peril.

Background

On December 6, 2012 and January 10, 2013, the City and Legal Aid sought an opinion from HUD regarding a waiver of certain terms of the City's HOPWA Agreement, specifically, those terms related to reporting program violations committed by HOPWA clients. The request stated, in part: "Legal Aid will be providing non-housing support services to HOPWA eligible clients. Legal Aid is concerned that if, during the course of its representation of a client, it learns of a program violation, the above provisions would require Legal Aid to disclose such violation to the

City of Fort Lauderdale. Disclosing this confidence would constitute a violation of the Florida Bar ethical standards, which require an attorney to protect confidences of a client (i.e. the attorney-client privilege)". See also Florida Bar Staff Opinion 32210, issued January 16, 2013.

#### Attachments

Exhibit 1 – HUD Letter dated 3-22-13

Exhibit 2 – Fla. Bar Staff Opinion 32210 dated 1-16-2013

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