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August 16, 2007

Cecilia Brewer-McDuffie, Chief
Human Resources
Miami-Dade Co. Water & Sewer Department
3071 SW 38th Ave., Room 134
Miami, FL 33146

Via First Class Mail and Fax at (786) 552-8880

Re: RQO 07-36

Dear Ms. Brewer-McDuffie:

The Commission on Ethics & Public Trust considered your request and rendered its opinion at a public meeting held on August 16, 2007.

YOU ASKED in emails (July 26-31, 2007) whether a training manager employed by the Water & Sewer Department (WASD) could accept outside employment from a municipality in the County to act as a training consultant.

IN SUM, the Ethics Commission opined that the manager may provide training to the municipality, but only if she meets several criteria, which are addressed below.

THE FACTS as we understand them are as follows.

1. A WASD training manager would like to engage in outside employment as a training consultant for the Town of Golden Beach. As a County employee, the training manager oversees a wide variety of training programs for WASD employees, including employee development, safety training, and *diversity training*, to name a few. The Town of Golden Beach is implementing a *diversity training* program for all municipal employees.
2. The County and WASD do not offer diversity training to municipalities or subdivisions of municipalities. Therefore, the

training manager is not competing with the County or her own department in offering consulting expertise to the Town of Golden Beach, nor is she providing a service that she would be required to provide as an employee of the County.

3. WASD does not directly nor through any interlocal agreements regulate or oversee the activities of the Town of Golden Beach or the town's water and sewer department. Therefore, the training manager will not be placed in a position as a County employee to oversee her own work or the work of her students in the municipality.
4. WASD has created materials on diversity training, but the training manager will not be using County materials for the courses she prepares for the Town of Golden Beach. The training manager's expertise is largely based on her education (BA and MA degrees) and her prior experience in the private sector and is not dependent on her experience with WASD. The training manager has been cautioned that using County resources (including, but not limited to, County materials, staff, and equipment) is strictly prohibited.

THE LEGAL BASIS for this opinion can be found at the Miami-Dade County Conflict of Interest & Code of Ethics at §§ 2-11.1—

- (g) *prohibition on exploitation of official position*—The County employee has been advised that she cannot use County resources for outside employment or receive additional compensation from outside employment for work otherwise required to be done on behalf of the County.
- (h) *prohibition on disclosure of confidential information*—The County employee is not in a position to disclose confidential information.
- (j) *prohibition on conflicting employment that would impair one's judgment in the performance of one's public duties*—The outside work will not impair the County employee's judgment because she does not have oversight responsibilities involving the Town of Golden Beach.
- (k)(1) *outside employment disclosure requirements*—The County employee must obtain permission from her supervisors and disclose income from outside employment annually.

IN SUMMARY, the WASD training manger may consult as a training expert with the Town of Golden Beach, as long as these requirements are met.

THE RATIONALE for limiting outside employment is that public employees are, above all, agents of the people. Public employment should never be used for private gain, except for one's government salary as

provided by law. At the same time, public employees should not be denied the same opportunities available to all other citizens, to acquire and retain private economic interests—unless, of course, those outside interests conflict with public duties.

This opinion construes the Miami-Dade Conflict of Interest & Code of Ethics Ordinance, but is not applicable to any conflict under state law. Inquiries regarding possible conflicts under state law should be directed to the State of Florida Commission on Ethics.

Please feel free to contact Victoria Frigo, Staff Attorney, at (305) 350-0601, or Robert Meyers at (305) 579-2594, if we can be of further assistance in this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert Meyers", followed by a long horizontal flourish.

ROBERT MEYERS
Executive Director