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**From:** Diaz-Greco, Gilma M. (COE)  
**Sent:** Thursday, June 05, 2014 8:32 AM  
**To:** Sanchez, Rodzandra (COE)  
**Subject:** Gary Held, First Assistant City Attorney, City of Miami Beach (2-year rule) INQ 14-135  
**Attachments:** lobbyistlevels.pdf

INQ 14-135

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**From:** Centorino, Joseph (COE)  
**Sent:** Wednesday, June 04, 2014 3:27 PM  
**To:** 'Held, Gary'; Ramos, Miriam S. (COE)  
**Cc:** Diaz-Greco, Gilma M. (COE)  
**Subject:** INQ - Gary Held, First Assistant City Attorney, City of Miami Beach (2-year rule)

Gary:  
It is permissible under the County Code, Section 2-11.1(q), for a former employee, who is within the two year time period from separation, to be employed by an entity involved in contracting with the city, as long as the employee does not lobby the city. The threshold for what constitutes lobbying is a lower standard from what is generally considered lobbying, but would generally not include behind the scenes discussions that do not involve interaction with city officials or employees. A recent opinion of ours that lays out the distinctions between what constitutes lobbying for regular lobbyists, prior employees, and current employees, and that identifies some of the permissible activities, is attached. Let me know if you have any questions.  
Joe Centorino

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**From:** Held, Gary [<mailto:GaryHeld@miamibeachfl.gov>]  
**Sent:** Wednesday, June 04, 2014 3:06 PM  
**To:** Centorino, Joseph (COE); Ramos, Miriam S. (COE)  
**Cc:** Held, Gary  
**Subject:** Question concerning rule after employment ends

Dear Joe or Miriam: A former CMB employee who has been asked to participate in an RFQ to CMB asks what rules apply. The below rules prevent a former employee from "lobbying" in connection with an RFQ. Do you interpret this to mean that person can be listed on the list of participants in the RFQ and advise the group behind the scenes, and "lobbying" is limited to active advocacy with City officials and employees? I couldn't locate the City rule, if any, on point, if you're aware of it. Thank you.  
Sincerely,  
Gary

Miami-Dade County Code  
Sec. 2-11.1. Conflict of Interest and Code of Ethics Ordinance.

(a) Designation. This section shall be designated and known as the "Miami-Dade County Conflict of Interest and Code of Ethics Ordinance." This section shall be applicable to all County personnel as defined herein, **and shall also constitute a minimum standard of ethical conduct and behavior for all municipal officials and officers**, autonomous personnel, quasi-judicial personnel, advisory personnel, **departmental personnel and employees of municipalities in the County insofar as their individual relationships with their own municipal governments are concerned**. References in the section to County personnel shall therefor be applicable to municipal personnel who serve in comparable capacities to the County personnel referred to.

\* \* \*

(q) Continuing application after county service.

- (1) **No person who has served** as an elected county official, i.e., mayor, county commissioner, or a member of the staff of an elected county official, or as county manager, senior assistant to the county manager, department director, departmental personnel or employee **shall, for a period of two (2) years after his or her county service or employment has ceased, lobby** any county officer, departmental personnel or employee in connection with any judicial or other proceeding, application, RFP, RFQ, bid, request for ruling, or other determination, contract, claim, controversy, charge, accusation, arrest or other particular subject matter in which Miami-Dade County or one (1) of its agencies or instrumentalities is a party or has any interest whatever, whether direct or indirect.

## MIAMIBEACH

**Gary M. Held, First Assistant City Attorney**

OFFICE OF THE CITY ATTORNEY

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Via First Class Mail  
and  
email at [ccarreño@urvanx.com](mailto:ccarreño@urvanx.com)

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GENERAL COUNSEL

MICHAEL P. MURAWSKI  
ADVOCATE

MIRIAM S. RAMOS  
DEPUTY GENERAL COUNSEL

June 13, 2012

Charles O. Carreño, Vice-President  
Urvan Management, LLC  
500 South Pointe Drive, Suite 230  
Miami Beach, FL 33139

**Re: RQO 12-09**

Post-Employment Prohibitions  
See Miami-Dade County Ethics Code at Sec. 2-11.1 (q)(1)

Dear Mr. Carreño:

IN A PUBLIC MEETING on May 31, 2012, the Miami-Dade Ethics Commission found that as a former City of Miami Beach employee you may not attempt to influence any official decision or official action in the City of Miami Beach, regardless of whether the action will foreseeably be heard or reviewed by the city commission, a city board or city committee, or by the city manager throughout the two years following your city employment.

Until December 31, 2010, you served as the Department Director of the Office of Capital Improvement Projects in the City of Miami Beach. Currently, you are the Vice-President of Urvan Management, LLC. Urvan is part of a team bidding on RFQ No. 38-11/1, known as the "As Needed Construction Services for Right-of-Way Capital Improvement Projects."

YOU HAVE ASKED the Ethics Commission about post-employment limitations affecting you as the Vice-President of Urvan, if Urvan were to serve as a subcontractor to the prime contractor, Parsons-Brinckerhoff, Inc., on the above-referenced project.

THE COUNTY ETHICS CODE at Sec. 2-11.1 (q)(1) prohibits former City of Miami Beach employees from engaging in a broad range of activities related to lobbying in the City.

Lobbying activities described in the post-employment ordinance are more expansive than those found under the general lobbying ordinance. Whereas the general lobbying ordinance characterizes lobbying as advocating for items that will *foreseeably be decided or recommended by any city commission, city board or the city manager*, the post-employment ordinance makes no such limiting connection to matters that will

foreseeably be brought before voting bodies or the city manager. Consequently, advocating for decisions that may be made at the sole discretion of any municipal personnel, not necessarily a voting body or the manager, are prohibited under the post-employment ordinance.

BASED ON PREVIOUS ETHICS OPINIONS, the following are examples of activities that are *not* considered lobbying for purposes of the two-year rule:

- reviewing construction documents for constructability
- imparting institutional knowledge and history of the City of Miami Beach's Capital Improvement Program to your team members
- providing support staff to the City through your private employer and partners, *as long as you do not attempt to influence City officers or personnel regarding the terms of this arrangement*
- developing and executing a program to encourage public input
- identifying expert witnesses and others to assist with reviewing claims and litigation matters
- estimating costs, *as long as you have no involvement with City officers and staff directly, through face-to-face meetings, telephone calls, emails, or other communications, in negotiating changes for any purpose, including negotiating change orders.*

ADDITIONALLY, YOU ASKED the following specific questions:

- 1) If requested by the prime contractor or the City of Miami Beach, may I participate in a presentation related to the above-referenced RFQ?

Some types of participation are allowable, while others are not. You may participate in meetings with the City on behalf of Urvan and its professional partners to discuss the City's practices and procedures and matters related to your professional knowledge of the City and the construction industry. These meetings must be held for informational purposes only and not for the purpose of influencing any recommendations or other actions on the project.

You are prohibited from arranging and/or participating in meetings with City officers and staff on behalf of Urvan and its professional partners if the meetings are convened for the purpose of influencing elected officers and/or City employees to take an official action or make an official decision.

- 2) If a question is asked by an evaluation committee member or the public during an evaluation committee meeting, may I respond to the question?

You may respond to questions, particularly regarding technical information, but you may not attempt to influence the decision of the evaluation committee.

- 3) Is the decision-making process considered completed upon approval by the elected body of a motion to award a contract to the successful proposer?

Yes. However, even after the completion of the decision-making process, the two-year rule will continue to prohibit any attempt on your part to influence any city board or the manager in connection with the approved contract.

- 4) If my team is awarded a contract by the elected body (*i.e.*, the decision-making process is completed and the Cone of Silence is lifted), may I assist in the negotiations of the contract terms, conditions and compensation with other members of the successful team and/or City representatives?

You may discuss contract terms, conditions and compensation strategies with Urvan team members and Urvan's professional partners.

You may *not* participate in negotiations or other discussions *directly* with City officers or staff because these actions are characterized as seeking to influence elected officers and/or City employees to take an official action or make an official decision.

FINALLY, FOR YOUR GENERAL GUIDANCE, please note that three levels of lobbying activities have been distinguished in Ethics Commission opinions:

Lobbyists in General. Under Sec. 2-11.1 (s), individuals with no current or recent employment relationship with a municipality are required to register as lobbyists when they advocate for items that will *foreseeably be decided or recommended by any of the city's commissions or boards or by the city manager.*

Post-Employment Restrictions. Under Sec. 2-11.1 (q), individuals formerly employed by a municipality within the past two years are prohibited from performing activities intended to influence *any official determination, regardless of whether the determination will foreseeably be decided or recommended by any of the city's commissions, boards, committees or the city manager.*<sup>1</sup>

Unlike the general lobbyist ordinance, the post-employment ordinance expands the definition of lobbying to include advocating for decisions

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<sup>1</sup> See **RQO 04-33** to Charles Danger, Director, County Building Dept; **RQO 04-201** to Rene Rodriguez, retired Director, County Housing Agency; **RQO 04-34** to Danny Alvarez, former Director, County Transit Dept; **RQO 01-38** to Miguel de Grande re: Nick Mazzora, former Aide to County Commissioner Joe Martinez; **RQO 08-28** to Paul Raymond, retired Chief Mechanical Inspector, City of Miami Beach; and also **RQO 00-12**, **RQO 03-120**, **RQO 04-48**, **RQO 04-106** and **RQO 04-148**.

that may be made at the sole discretion of individual municipal personnel, not necessarily a voting body.

Current County or Municipal Officers and Employees. Under Sec. 2-11.1 (m)(1), individuals serving in municipal positions may *not engage in any discussions whatsoever* with officials, directors or staff of their respective governments on behalf of third parties.

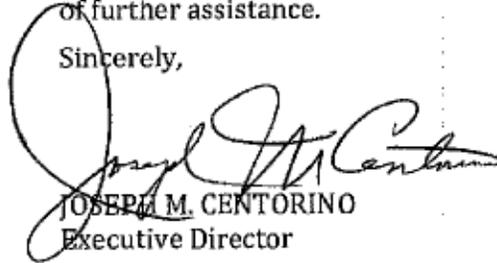
This prohibition is the most expansive and extends to perfunctory meetings involving ministerial issues or information requests.<sup>2</sup>

IN CONCLUSION, the Ethics Commission emphasizes that the County Ethics Code represents a minimal standard of conduct for those who have served in government and remain subject to the two-year rule prohibiting lobbying by former public employees. Former employees should carefully consider the totality of the circumstances before taking any action that could possibly erode the public's trust.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics Ordinance only and 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 me or Victoria Frigo, Staff Attorney, if we can be of further assistance.

Sincerely,



JOSEPH M. CENTORINO  
Executive Director

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<sup>2</sup> See **RQO 05-15** to Leland S. Salomon, former Chief of the Real Estate Development Division of GSA, who was given permission to engage in outside employment as a real estate analyst for private investors as long as his private clients were not engaged in any real estate transactions with the County and as long as he did not appear before the County or *meet with County staff* regarding *any matter* involving his private clients.