
INQ 16-13 Moubayed

From: Moubayed, Bassam (PWWM)
Sent: Thursday, January 21, 2016 8:19 AM
To: Perez, Martha D. (COE) <perezmd@miamidade.gov>
Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Subject: RE: Bassam Moubayed, Division Chief, Construction Division, PWWM, Outside employment, INQ 16-13

Good morning Ms. Perez,

Thank you for your prompt response, help and assistance;

Respectfully,

Bassam Moubayed, CFM, Chief, Construction Division
Miami-Dade County Department of Public Works & Waste Management
305-375-2111 Phone 305-375-2547 Fax
miamidade.gov
"Delivering Excellence Every Day"

From: Perez, Martha D. (COE)
Sent: Wednesday, January 20, 2016 3:57 PM
To: Moubayed, Bassam (PWWM)
Cc: Centorino, Joseph (COE); Diaz-Greco, Gilma M. (COE)
Subject: Bassam Moubayed, Division Chief, Construction Division, PWWM, Outside employment, INQ 16-13

Dear Mr. Moubayed,

Thank you for your prompt responses to my questions. You have inquired whether a conflict of interest would exist where you requested permission for outside employment as a trainer with the Florida Storm Water Association (FSA), teaching classes for certified storm water operators in the Miami-Dade County area, where County employees may also be attending the classes.

As background, you are the Division Chief in charge of the Construction Division for Miami-Dade County Public Works and Waste Management (PWWM). Your job responsibilities include the management of the daily activities of the division and the supervision of staff which manages all ongoing projects for the department. You also supervise the Permit and Inspection office, which issue permits for work within the County's public rights of way (including roadways, bridges, swales, sidewalks, storm water and canals) to utility companies and contract companies. You are seeking to engage in outside employment as an independent contractor with the Florida Storm Water Association (FSA), a non-profit organization which provides training and education, technical assistance and information sharing and advocacy related to storm water management and finance. You will be conducting training classes in the storm water utility field for certified storm water operators (level 1 and 2) in the Miami-Dade County area, including County employees. You will be instructing the class, proctoring the exam, grading the exams and forwarding all the documentation to FSA which will review it and issue the final certification to successful candidates. This training will take approximately two

consecutive days, for which you will be requesting annual leave.. The location of the training has yet to be determined but a County facility may be a possibility. (If the location for the training is later identified as a PWWM facility, it is suggested that you contact our office for additional guidance).

The Ethics Code at Sec. 2-11.1(j) states that a County employee may not accept outside employment that impairs his independence of judgment in the performance of his public duties. The Ethics Commission has opined that a County Fire Dept. lieutenant may engage in outside employment, through his privately owned company, training County firefighters in HazMat because in his capacity as a County firefighter, he was not involved in the training of county employees, did not use County equipment or County time to engage in private training, and did not compete with the County for training dollars. See RQO 09-16. You advise that , while County employees may attend the FSA's storm water operator certification training, PWWM staff under your supervision is not required to hold a storm water operator level 1,2 certification. In fact, *no County employee under your direct supervision will be attending this training.* Under these circumstances, it is unlikely that the training you will be performing in your outside employment would impair your independence of judgment in the performance of your County duties at PWWM as a Division Chief in the PWWM Construction, Permit and Inspection divisions.

As a reminder, pursuant to Section 2-11 of the County Code, County employees are required to request permission to engage in outside employment from their supervisor on a yearly basis. Consequently, although you obtained permission last year, you must seek permission for outside employment for 2016. In addition, Sec. 2-11.1(k)(2) of the County's Ethics Code requires filing a financial disclosure form on a yearly basis. County employees are cautioned that they may not engage in any activity which would require them to disclose confidential information acquired by reason of their official position, nor use such information directly or indirectly for their personal gain or benefit. See Sec. 2-11.1(h), County Ethics Code . Lastly, a County employee may not use his or her official County position to secure privileges or exemptions for themselves or others. See Sec. 2-11.1(g), County Ethics Code.

This opinion is based on the facts presented. If any of these facts change, please contact us.

Martha D. Perez

Staff Attorney

MIAMI-DADE COUNTY COMMISSION ON ETHICS & PUBLIC TRUST

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From: Moubayed, Bassam (PWWM)

Sent: Tuesday, January 19, 2016 9:41 AM

To: Centorino, Joseph (COE) <CENTORI@miamidade.gov>

Subject: Request for an Opinion

Mr. Joseph Centorino, Executive Director

Commission on Ethics and Public Trust

Miami Dade County

RE: Request for an Advisory Opinion

Dear Mr. Centorino;

My name is Bassam M Moubayed and I am a division chief with Miami-Dade County Public Works and Waste Management Department, Construction Division. After obtaining an outside employment approval last year, I signed on to be an Independent Contractor trainer with the Florida Stormwater Association (FSA). I have included below information regarding the FSA for your reference:

"The Florida Stormwater Association (FSA) was formed in 1993 as the Florida Association of Stormwater Utilities to serve professionals in stormwater management and finance. Our name was changed in June 2001 to more accurately reflect its broad interests in stormwater management services, in addition to stormwater finance. FSA provides three basic services for its members: Training and Education; Technical Assistance and Information Sharing; and, Advocacy and Legislative Relations. A 22-member Board of Directors and 4-member Executive Committee govern the Association. FSA is a 501(c)(4) non-profit corporation."

I have obtained an outside employment approval last year, although I yet to render services to the FSA, or any other entities. At present, I request advice on the following:

As part of my duties as an independent contractor for FSA, my responsibilities are to conduct training in the stormwater utility field. These training classes consist of one or two days consecutive events. Additionally, the trainer will have sole responsibility for administering, collecting and grading the course examinations, using the examination provided by FSA. In consideration for services provided, I will receive a fee of One Thousand Two Hundred Dollars (\$1,200) for instruction related and related tasks to each two-day day training course at which I serve as an instructor on behalf of FSA.

The FSA may request of me to conduct, on their behalf, classes for the Certified Stormwater Operator Level 1 and Level 2 in the Miami-Dade County area at which county employees will be in attendance, The FSA may also seek the use of a county facility for the training where county employees and other public and private sectors employees will be in attendance. If asked to conduct these classes, I would be requesting annual leave from work for the duration of the class, which is two days, meaning I will be on approved annual leave.

I am seeking the advice and guidance of the Commission of Ethics on this matter. Can I be the trainer acting on behalf the FSA where county employees are present as students? Would I be violating any part of the Code of Ethics if I carry on this role as an Independent Contractor Trainer for the Florida Stormwater Association (FSA)?

I look forward to hearing from you on this matter. Your help and assistance is greatly appreciated. If I can provide any additional information, please do not hesitate to contact me.

Sincerely,

Bassam Moubayed, CFM, Chief, Construction Division
Miami-Dade County Department of Public Works & Waste Management
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