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May 29, 2008

Alex Gonzalez, Government Affairs Director
Waste Management of Florida, Inc.
15476 NW 77th Court, #321
Miami Lakes, FL 33016

Re: **RQO 08-22**
Miami-Dade County Conflict of Interest and Code of Ethics at § 2-11.1 (s)
and the City of Opa-locka Code at § 2-18.

Dear Mr. Gonzalez:

The Commission on Ethics & Public Trust considered your matter regarding lobbying in the City of Opa-locka and rendered its opinion at a public meeting held on May 29, 2008.

You are receiving this opinion in connection with the dismissal of Complaint C 08-05. That case involved your appearances before a City of Opa-locka Selection Committee on behalf of Waste Management, Inc., of South Florida. At the time, as Government Affairs Director with Waste Management, you had not register in the City as a lobbyist.

IN BRIEF, THE ETHICS COMMISSION OPINED THAT you must register with the City of Opa-locka as a lobbyist in order to appear before City Selection Committees. Unlike the County lobbyist ordinance, which exempts individuals under certain circumstances from registering, no such exemptions exist under the Opa-locka lobbyist ordinance. However, you are not required to register as a lobbyist if your activities are limited to overseeing the actual performance of a successful Waste Management contract—*i.e.*, carrying out a contract that requires no further official action in order to become effective.

THE FACTS are as follows: you are the Government Affairs Director of Waste Management of Florida, Inc., a for-profit corporation that has held a contract for the past several years with the City of Opa-locka to provide solid waste collection. During the time that the contract has been in force, your regular duties have included dealing with city officials, employees, and citizens regarding performance of the contract—*e.g.*, handling matters related to regular trash pick ups, damage to personal property by company trucks, support at public events, and similar issues.

Originally, the contract was renewed without competitive bidding, but more recently, the City Opa-locka has chosen to solicit proposals for the waste management contract.

Although the County lobbyist ordinance excludes from the definition of lobbyist certain employees whose normal scope of employment does not include lobbying activities, no such exclusion exists under the City of Opa-locka lobbyist ordinance. See County Code at § 2-11.1 (s)(1)(b) and the City of Opa-locka Code at § 2-18.

Additionally, the County procurement process excludes from the definition of lobbyist those individuals who will be part of a team making a public presentation at a selection committee meeting, as long as these individuals are listed in an affidavit that accompanies the proposal. See County Code at § 2-11.1 (s)(5). This exclusion is absent from the City of Opa-locka ordinance.

BASED ON THE FOREGOING, you are required under the Opa-locka lobbyist ordinance to register as a lobbyist if you appear before the City of Opa-locka Commission or any city committee or board to encourage the city to take official action. However, you are not required to register as a lobbyist if your activities are limited to overseeing the actual performance of a successful contract.

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,



ROBERT MEYERS
Executive Director

copy: Michael Band, Esq.
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