

**Meyers, Robert (COE)**

JNO 08-132

**From:** Meyers, Robert (COE)  
**Sent:** Thursday, July 31, 2008 10:47 AM  
**To:** 'Lucy.Terrill@ey.com'  
**Subject:** RE: Contingency Fees

Dear Ms. Terrill:

The Miami-Dade County Conflict of Interest and Code of Ethics Ordinance contains a provision dealing with lobbying Miami-Dade County officials and employees. You are correct in stating that the County has banned lobbyists from receiving contingency fees or success fees. Before reaching the conclusion that the arrangement you describe violates the County code, I must determine whether the activities you wish to undertake on behalf of your client would be considered lobbying and whether there are any applicable exceptions.

Based upon the facts you have provided me, it appears that you would be engaged in lobbying, which triggers the contingency fee ban. Lobbying is defined as representing a third party in an attempt to influence local government decision-makers. Your client wishes to hire your firm to seek local government grant funding and receive a special tax exemption. There is no little doubt that during the process of securing a grant and receiving a tax exemption your firm would be lobbying local government officials. The question remains whether any of the exemptions to the lobbying rules apply here. One possible exemption written in the code states that a person appearing as a representative of not-for profit community based organization for the purpose of requesting a grant is not considered a lobbyist. Unfortunately, I do not believe your situation falls within this exception. Assuming that your client is a not-for-profit community based organization, the exemption only exists if the person who appears on behalf of the not-for-profit agency does not receive special compensation for the appearance. In your particular case, your client plans on paying your firm for your work – assuming that you are successful in obtaining the grant and tax exemption. Due to the fact you would be specially compensated for your efforts, a success fee or contingency fee agreement between the client and your firm would be illegal.

Please understand the law does not prohibit you from lobbying Miami Beach or Miami-Dade County. It simply restricts the form of compensation that you are permitted to accept if you are engaged by a third party to represent its interests before local governments in Miami-Dade County.

If you have any additional questions or wish to discuss the above with me, please do not hesitate to contact me at your convenience.

Sincerely,

Robert Meyers, Executive Director  
 Miami-Dade Commission on Ethics and Public Trust  
 (305) 350-0613

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**From:** Lucy.Terrill@ey.com [mailto:Lucy.Terrill@ey.com]  
**Sent:** Wednesday, July 30, 2008 11:31 AM  
**To:** Meyers, Robert (COE)  
**Cc:** Melissa.Fox@ey.com  
**Subject:** Re: Contingency Fees

Thank you for your response Mr. Myers.

Our client is renovating a historic Miami Beach hotel and is considering applications for a Miami-Dade County Historic Preservation Fund Grant and the Miami-Dade County Historic Preservation Ad Valorem Tax Exemption, which provides a 10-year property tax abatement on the historic property improvements.

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Our role in the process would be to research the requirements of these programs, determine whether our client meets the criteria for assistance, assist with the preparation of the application and supporting documents, coordinate the approval process with the City of Miami Beach and Miami-Dade County, and meet/communicate with local authorities as needed throughout the process.

A findings-based fee structure would allow our client to obtain our services without having to take on the burden and risk of up-front fees knowing that the outcome of the benefits is uncertain.

I appreciate any guidance you can provide, as we are hoping to resolve this issue as soon as possible so that we can move forward with the work. My colleague, Melissa Fox, and I are available for a follow-up call today to answer any questions you should have.

Thanks,  
Lucy

Ernst & Young ®

Ernst & Young LLP  
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Thank you for considering the environmental impact of printing emails.

"Meyers, Robert (COE)" <RMEYERS@miamidade.gov>

To <Lucy.Terrill@ey.com>

cc

07/30/2008 10:38 AM

Subject: Contingency Fees

Ms. Terrill:

I received your e-mail from the County Attorney's Office and I inadvertently deleted it. I did, however, keep a hard copy. In order for me to give you advice about the applicability of the contingency fee restriction, I need more information from you. Specifically, what type of incentives or grants is the client seeking and what exactly is consultant's role in this matter?

You can e-mail me this information or call me at (305) 350-0613.

Thanks,

Robert Meyers, Executive Director  
Miami-Dade Commission on Ethics and Public Trust

7/31/2008

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