
From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, August 28, 2014 2:22 PM
To: Sanchez, Rodzandra (COE)
Subject: Nahum Fernandez, Ethics Opinion (lobbying) INQ 14- 203

INQ 14-203

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, August 28, 2014 2:19 PM
To: Fernandez, Nahum (PWWM)
Cc: Centorino, Joseph (COE)
Subject: Nahum Fernandez, Ethics Opinion (lobbying) INQ 14- 203

Dear Mr. Fernandez:

You have inquired whether manufacturers and sales representatives of companies that manufacture traffic control products that must be certified by the County's Public Works and Waste Management Department's (PWWM) Traffic Signals and Signs Division (TSS) in order to be included in TSS's Qualified Products List (TSSQPL) are required to register as lobbyists when they communicate with PWWM staff regarding the certification and testing of their products for inclusion in the TSSQPL.

As background, PWWM is responsible for the inspection, maintenance and operations of all traffic control devices within the County traffic control system (which includes all municipalities, unincorporated areas, state roads, and MDX toll-way on/off ramp intersections). In order to ensure system uniformity and promote efficacy in traffic control systems, TSS is responsible for evaluating and testing traffic control products for inclusion in the TSSQPL, a listing of the traffic control signals or devices including flashers, beacons, and other traffic control products accepted by PWWM for installation in the County traffic control system. Only products currently listed in the TSSQPL, or submitted to and approved in writing by PWWM for addition to the TSSQPL, may be installed in the County roads system.

You advise that neither County boards, nor committees, nor public officials are involved in the preparation or certification of products included in the TSSQPL. TSS's certification process is limited solely to the acceptance for use of the product within the County system and does not constitute an authorization to purchase these products. Authorization to purchase is subject to all applicable County, municipal or state procurement requirements. However, only those products that have been approved by TSS may be integrated into Miami-Dade County's traffic control system.

Under the County Ethics Code, individuals who advocate for matters that will foreseeably be decided by any of the County's commissions, boards, committees or by the Mayor are required to register as lobbyists *See* County Code at Sec. 2-11.1(s). However, individuals who are advocating for decisions that can be made at the sole discretion of an individual County employee (i.e., decisions that are not determined by a voting body) are not lobbying. *See* RQO 12-09 and INQ 13-192. Consequently, in this case, the representatives of corporations may advocate on decisions that can be made at the sole discretion of individual TSS employees.

However, please note that, if the person who is advocating **was also previously employed by the County** within the past two years (two-year rule), he or she is held to stricter standards than lobbyists in general. Individuals previously employed by the County within the past two years are prohibited from performing **any** activities intended to influence **any** official determination, **regardless** of whether the determination will foreseeably be decided or recommended by any of the County's commissions, boards, committees, or the Mayor. *See* County Code at Sec. 2-11.1 (q), RQO 12-09, and INQ 13-192.

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 579-2594
Fax: (305) 579-0273
gdiazgr@miamidade.gov
www.facebook.com/MiamiDadeEthics

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From: Fernandez, Nahum (PWWM)
Sent: Friday, June 20, 2014 2:30 PM
To: Diaz-Greco, Gilma M. (COE)
Cc: Aira, Frank (PWWM)
Subject: Miami-Dade QPL

Good afternoon:

The Florida Department of Transportation (FDOT) considers and evaluates traffic control products for use in the State of Florida pursuant to Section 316.0745 of the Florida Statutes. The Traffic Signals and Signs Division (TSS) of the Miami-Dade County Public Works and Waste Management Department is responsible for the inspection, maintenance and operations of all traffic control devices within the Miami-Dade County traffic control system. In order to ensure system uniformity and promote efficacy with respect to maintenance and operations, TSS further evaluates the subset of the FDOT listed products that can be readily integrated into the existing County traffic control system prior to their approved use on County maintained roadways.

TSS's consideration and evaluation of acceptable traffic control products is limited solely to the acceptance for use of the product within the County system and does not constitute an authorization to purchase these products. Subject to all applicable procurement requirements, approved traffic control devices may be purchased directly by the County; local municipalities; or contractors performing traffic related construction for the County, local municipality, the FDOT on a State Road within Miami-Dade County, or a private developer. However, only those that have been approved by TSS may be integrated into Miami-Dade County's traffic control system.

Pursuant to the above, TSS must routinely interface (e.g. documentation and product submittals, presentations, etc.) with manufacturers and their authorized sales and technical representatives in order to evaluate these products for use within Miami-Dade County. TSS is hereby requesting an opinion regarding whether or not the aforementioned manufacturers and their authorized sales and technical representatives must register as lobbyist.

<http://www.miamidade.gov/qpl/>

Nahum Fernandez
Traffic Control Standards and Specifications Coordinator
Miami-Dade County, Department of Public Works and Waste Management

Downtown Office
111 NW 1st Street, 14th Floor, Florida 33128
Phone 305-375-3234 Fax 305-375-2931

Traffic Signals and Signs Facility
7100 NW 36th Street
Miami, FL 33166
Phone 305-592-3580 x 297

<http://www.miamidade.gov/publicworks/>

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