



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
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PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lieutenant Governor

JACQUELYN A. SUÁREZ
Acting Commissioner

September 26, 2023

VIA CERTIFIED MAIL AND E-MAIL (a-ferro@millstonenj.gov)

The Honorable Albert Ferro, Mayor
Township of Millstone
470 Stage Coach Road
Millstone Township, New Jersey 08510

RE: Millstone Township CMFO – Director Order

Dear Mayor Ferro:

The Division of Local Government Services (Division) understands that Millstone Township has appointed Anthony Mannino, an employee of the firm Holman Frenia Allison, P.C. (HFA), as the Township's Chief Municipal Finance Officer (CMFO) for a \$5,000 annual salary. For 2022 and 2023, the governing body awarded a contract to HFA for financial and accounting consulting services with a maximum amount of \$45,000. The scope of work under the HFA contract includes items such as bank reconciliations and budget preparation, along with the preparation of supplemental debt statements, the annual debt statement, the annual financial statement, and audit schedules. We note that the initial January 5, 2022 resolution appointing Anthony Mannino as CMFO also states that HFA shall provide "supporting CMFO and Accounting Services."

Initially, Mr. Mannino's CMFO certification lapsed as of July 1, 2023. Further, the Township failed to seek Director approval for HFA to temporarily perform the duties of a CMFO in 2022 and 2023. If a licensed CMFO has vacated the position, N.J.A.C. 5:32-2.5 establishes the process by which a municipality may apply for Director approval to hire a private entity to temporarily fulfill the duties of a CMFO while undertaking a search for a licensed CMFO. N.J.A.C. 5:32-2.5(b)3 states that a municipality "shall not appoint or reappoint a private entity to fulfill the duties of a chief financial officer without first making a written request to the Director for approval" and further that "[A]ny contract with a private entity shall be conditioned upon Director approval." The appointment of an individual as CMFO at a nominal salary affiliated with such a private entity, as is the case here, is similarly subject to the requirements of N.J.A.C. 5:32-2.5.

The Township shall hire a licensed CMFO within 90 days from the date of this correspondence and cannot contract with another private entity to fulfill the CMFO duties. Again, the appointment of an individual as CMFO at a nominal salary who is affiliated with such a private entity is the equivalent of directly contracting with the private entity itself. Notwithstanding this Order, to facilitate an orderly transition in the Township's finance office, HFA may continue to fulfill

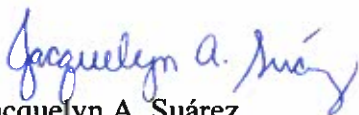
CMFO duties for a period not to exceed 90 days from the date of this correspondence but shall not continue doing so afterward, including under the guise of a consulting contract. During this period, as Mr. Mannino's CMFO certification has lapsed, another HFA employee with a CMFO certification will be required to supervise all work performed on behalf of the Township and sign any documents required to be executed by a CMFO.

Within 30, 60, and 90 days from the date of this correspondence, the Township shall provide a written update to the Division on its progress in obtaining a licensed CMFO. All updates and documentation shall be directed to Bonnie Brookes in the Division's Certification Unit (Bonnie.Brookes@dca.nj.gov). The Township shall provide proof of its having advertised for the CMFO position by no later than 30 days from the date of this correspondence. In addition to posting the position on the Township's website and the websites of the New Jersey League of Municipalities and the Government Finance Officers Association of New Jersey, the Township shall advertise for a CMFO through such other means as are reasonably calculated to solicit the greatest possible number of qualified candidates. Also enclosed is a list of all individuals having obtained CMFO certification in the two most recent examination cycles; the Township shall email the advertisement to each person on the list within 30 days of the date of this correspondence. The Division reserves the right to Order such additional measures as may be necessary to solicit qualified candidates.

Any negotiations with other municipalities for a shared services agreement must be conducted parallel to the advertisement process. In the event the Township requires technical assistance in implementing a shared services agreement for a CMFO, please contact the Division's Local Assistance Bureau (LAB) via email at localassistance@dca.nj.gov or by dialing 609-292-6613 Option #1.

Pursuant to N.J.S.A. 40A:9-140.10.a, any governing body members who willfully fail or refuse to comply with this Order shall be subject to a personal penalty of \$25 for each day after the date fixed for final action that failure or refusal to comply continues. If the Township elects to appeal this Order and request a hearing before the Local Finance Board, the Board must be notified in writing within 10 days.

Sincerely,



Jacquelyn A. Suárez
Acting Commissioner, Department of Community Affairs
Director, Division of Local Government Services

Cc: Kevin Abernethy, Township Administrator (via email Twpadm@Millstonenj.gov)
Kathleen Hart, Township Clerk (via email k-hart@millstonenj.gov)
Joseph Sarno, Director, Holman Frenia Allison, P.C. (via email jsarno@hfacpas.com)
w/o enclosure
Mr. Anthony Mannino, Holman Frenia Allison, P.C. (via email amannino@hfacpas.com)
w/o enclosure

Enclosure