



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO BOX 803
TRENTON, NJ 08625-0803

PHILIP D. MURPHY
Governor

TAHESHA L. WAY
Lieutenant Governor

JACQUELYN A. SUÁREZ
Acting Commissioner

September 26, 2023

VIA CERTIFIED MAIL AND EMAIL (ba@bradleybeachnj.gov)

Mr. Greg Feherenbach, Business Administrator
Borough of Bradley Beach
701 Main Street
Bradley Beach, New Jersey 07720

RE: Private Entity CMFO Reappointment Application & Director Order

Dear Mr. Feherenbach:

The Division of Local Government Services (Division) has received the Borough's application to reappoint the firm of Holman Frenia Allison, P.C. (HFA) to temporarily fulfill the duties of a Chief Municipal Finance Officer (CMFO) for a second consecutive one-year term. The Borough's application for reappointment of HFA is **denied**.

The Borough had originally entered into a "financial advisory services" contract with HFA on November 30, 2021, the express scope of which was to fulfill "Certified Municipal Finance Officer duties for the Borough of Bradley Beach," without first receiving Division approval. The Borough originally appointed Anthony Mannino, an employee of HFA, as CMFO on December 14, 2021. Upon our Directive, the Borough submitted an application for approval after the fact. The Division approved HFA to perform CMFO duties for the Borough for the period of December 14, 2021 to December 13, 2022. The Borough reappointed Anthony Mannino as CMFO on February 2, 2022, with a \$10,000 annual salary. On May 10, 2022, the governing body awarded a contract to HFA for "financial advisory services" with a maximum amount of \$6,000 per month.

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 nominal salary who is affiliated with such a private entity, as is currently the case here, is similarly subject to the requirements of N.J.A.C. 5:32-2.5. N.J.S.A. 40A:9-140.10.b conditions approval upon the municipality demonstrating having made a good faith effort to hire a licensed CMFO.

The Division must deny the subject application. At this juncture, we are not satisfied that HFA can satisfactorily perform the duties of a CMFO for the Borough. Initially, please note that Mr. Mannino's CMFO certification lapsed as of July 1, 2023. Further, the Borough has taken insufficient measures to solicit applications for the CMFO position - we note that the Borough has only recently started to advertise for the position. The Borough shall hire a licensed CMFO within 90 days from the date of this correspondence and cannot contract with another private entity to fulfill CMFO duties. Notwithstanding the denial of the Borough's application, in order to facilitate an orderly transition in the Borough'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 Borough and sign any documents required to be executed by a CMFO.

Within 30, 60, and 90 days from the date of this correspondence, the Borough shall provide written updates 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 Borough shall provide proof of its advertisement for the CMFO position by no later than 30 days from the date of this correspondence. In addition to posting the position on the Borough's website and the websites of the New Jersey League of Municipalities and the Government Finance Officers Association of New Jersey, the Borough 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 Borough 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. If the Borough 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 Borough elects to appeal this Order and requests 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: Hon. Larry Fox, Mayor (via email lfox@bradleybeachnj.gov)
Hon. Meredith DeMarco, Council President (via email mdemarco@bradleybeachnj.gov)
Michele Whille, Borough Clerk (via email mwhille@bradleybeachnj.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