
FW: INQ 16-135 Meyers

From: Centorino, Joseph (COE)

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Subject: INQ 16-135 Robert Meyers, Esq. Weiss Serota Helfman Cole Bierman

Robert Meyers, Esq., of Weiss Serota Helfman Cole Bierman inquired regarding whether in municipalities following the County Cone of Silence it would be impermissible for lobbyists, contractors or elected officials or staff to communicate in writing with selection committees. Under Section 2-11.1(t)1.(c)(i) it would be permissible under the Cone of Silence for written communications to occur provided that a copy of the written communication is delivered to the Clerk of the Board and made a public record. An issue arose with the County Water and Sewer Department during 2013, which involved the submission by a party of a substantially revised proposal following its review of a competitor's proposal, and which was determined by the COE to not have resulted in a Cone of Silence violation, but to have created doubts about the integrity of the procurement process. As a result of that matter, the County Internal Services Department, which oversees procurement matters, instigated a new policy whereby most County solicitations would include language in the bid documents that such written communications with a selection committee are prohibited. However, that policy is an administrative County policy which would not automatically apply to any municipality, even a municipality which follows the County Cone, unless that municipality were to adopt the same administrative policy. I advised Mr. Meyers that, in the absence of such a policy, Section 2-11.1(t)1.(c)(i) would permit the written communication under the conditions noted above.

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