

Sanchez, Rodzandra (COE)

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, January 26, 2017 9:52 AM
To: Sanchez, Rodzandra (COE)
Subject: Thomas Pepe, City Attorney, City of South Miami (Lobbying) INQ 17-22

INQ 17-22 Pepe

From: Diaz-Greco, Gilma M. (COE)
Sent: Thursday, January 26, 2017 9:50 AM
To: 'Pepe, Thomas F.' <TPepe@southmiamifl.gov>
Cc: Centorino, Joseph (COE) <Joseph.Centorino@miamidade.gov>; Murawski, Michael P. (COE) <Michael.Murawski@miamidade.gov>; Perez, Martha D. (COE) <perezmd@miamidade.gov>; Turay, Radia (COE) <Radia.Turay@miamidade.gov>
Subject: Thomas Pepe, City Attorney, City of South Miami (Lobbying) INQ 17-22

Dear Mr. Pepe:

You have inquired at what point in the procurement process, after the City has advertised a solicitation for qualifications, proposals, letters of interest, invitation to bid, etc., does a "bidder" need to register as a lobbyist.

Ministerial duties and inquiries about process and procedure

Generally, inquiries about the City's bid or solicitation processes and procedures or ministerial functions related to that bid or solicitation process would not be considered lobbying and would not require registration. See RQO 04-33. Thus, inquiries about the city's solicitation and procurement processes and submitting documentation in response to a City solicitation, RFP, RFQ, etc. limited to process and procedure and ministerial functions would not be considered lobbying.

However, communication regarding matters, other than process or procedure, by the bidder or proposer with city elected officials or personnel regarding a foreseeable or current bid or solicitation **with the intent** to influence the decision regarding that bid or solicitation constitutes lobbying and would require registration. The term communication is broadly defined to include all types of communication with elected officials or personnel, whether face-to-face, meeting, a telephone conversation or an e-mail exchange. See C 07-11, INQ 04-40. For example, in RQO 04-148 the Ethics Commission found that communications with officials to attempt to circumvent established departmental processes and procedures in order to persuade officials to take a particular course of action would be considered lobbying.

Oral presentations before a city certification, evaluation, selection, technical review committees

The County Ethics Code Section 2-11.1(s)(5) and the City of South Miami Code Section 8A-5(c)(9) provide an alternative to lobbyist registration; only those who are going to be part of a presentation team before a city certification, evaluation, selection, technical review or similar committee, and do not engage in **any other** lobbying file an affidavit with the City clerk instead of registering as a lobbyist. However, other than for oral presentations of this type, proposers who wish to address the City Commission, a City Board, City Committee, or City personnel regarding any solicitation or bid would be considered to be lobbying and would have to complete lobbyist registration with the City Clerk. See C 13-42 Letter of Clarification. This would include meetings with any City public officials or personnel, sending letters, or any other communication intending to influence the outcome of the bid or solicitation at any time. In addition, if any person who **is not** listed on the affidavit will be part of the oral presentation team described herein, that person would have to be registered as a lobbyist.

Other lobbying

Please note that outside of the matters discussed above any other communications intended to influence any action of the City Mayor, City Commission, City boards or City staff members would constitute lobbying and would require registration. Miami-Dade Code 2-11.1(s) and City of South Miami Code 8 A-5

Please contact us if you have any further questions.

Best regards,

Gilma (Mimi) Diaz-Greco
Staff Attorney



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From: Pepe, Thomas F. [<mailto:TPepe@southmiamifl.gov>]
Sent: Thursday, January 05, 2017 9:09 AM
To: Diaz-Greco, Gilma M. (COE) <Gilma.Diaz-Greco@miamidade.gov>
Subject: Bidder registration as lobbyist

At what point in the procurement process, after the City has advertised a solicitation for qualifications, proposals, letters of interest, invitation to bid, etc., does a "bidder" need to register as a lobbyist?

Thank you.
Very truly yours,

Thomas F. Pepe

City Attorney, Board Certified by the Fla. Bar
in City, County and Local Government Law.
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