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VIA FACSMILE (305) 854-2323

April 19, 2007

Mitchell Bierman
Weiss, Serota, Pastoriza, Cole and Boniske,
P.A.
2525 Ponce De Leon Boulevard
Suite 700
Coral Gables, FL 33134

RE: INQUIRY 07-55

Dear Mr. Bierman:

Per our conversation, you requested an opinion as to whether the Cone of Silence permits an existing vendor to discuss matters related to an existing contract during the period when a new contract is going through the bid and award process. The Executive Director and I have reviewed this matter and I am issuing the opinion based on the facts as presented. Please contact me if you want a formal opinion from the Ethics Commission.

In our conversation, you stated that a contractor who holds an existing recycling contract is seeking to discuss matters related to a contract extension with Miami-Dade County. Miami-Dade County is currently undergoing the selection process for a new recycling contract. The extension will permit current operations to continue until the new contract is awarded.

The Cone of Silence permits an existing contractor to discuss matters related to a current contract with county personnel. The only caveat is that the discussions cannot

include any matters, with the exception of process and procedure, included in the current solicitation. Section 2-11.1(t) provides that "the Cone of Silence is hereby defined to mean a prohibition on (i) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and the County's professional staff, including but not limited to, the County Manager and his or her staff; (ii) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the County's professional staff including but not limited to the County Manager and his or her staff; (iii) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and any member of the selection committee therefore; (iv) any communication regarding a particular RFP, RFQ or bid between the Mayor, County Commissioners or their respective staffs and any member of the selection committee therefore; (v) any communication regarding a particular RFP, RFQ or bid between a potential vendor, service provider, bidder, lobbyist or consultant and the Mayor, County Commissioners and their respective staffs and (vi) any communication regarding a particular RFP, RFQ or bid between any member of the County's professional staff and any member of the selection committee therefore."

Accordingly, the Cone of Silence does not prohibit communication regarding an existing contract including discussions regarding renewals or extensions as long as the discussion does not include discussion of the on-going solicitation.

This opinion construes the Miami-Dade Conflict of Interest and Code of Ethics

ordinance only and is not applicable to any conflict under state law. Please contact the State of Florida Commission on Ethics if you have any questions regarding possible conflicts under state law.

If you have any questions regarding this opinion, please call the undersigned at (305) 350-0616.

SINCERELY YOURS,


ARDYTH WALKER
Staff General Counsel

TRANSMISSION VERIFICATION REPORT

TIME : 04/19/2007 15:41
NAME : COMMISSION ON ETHICS
FAX : 3055790273
TEL : 3055792594
SER. # : 000A6J636638

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PLEASE CALL ME AT (305) 350-0616 OR EMAIL ME AT AWALKER@MIAMIJUDGE.GOV IF YOU HAVE ANY QUESTIONS

NOTES/COMMENTS:

URGENT FOR REVIEW PLEASE COMMENT PLEASE REPLY PLEASE RECYCLE

Inquiry 07-55

YOUR REFERENCE NUMBER: