
From: Diaz-Greco, Gilma M. (COE)
Sent: Tuesday, October 20, 2015 3:45 PM
To: Sanchez, Rodzandra (COE)
Subject: Omar Bradford, Esq., Genovese, Joblove & Battista, P.A. (Cone of Silence) INQ 15-232

INQ 15-232 Bradford

From: Centorino, Joseph (COE)
Sent: Tuesday, October 20, 2015 3:41 PM
To: Rosenthal, Oren (CAO); 'obradford@gib-law.com'
Cc: Benitez, Hugo (CAO); Murawski, Michael P. (COE); Diaz-Greco, Gilma M. (COE); Perez, Martha D. (COE); Sanchez, Gerald (CAO)
Subject: INQ 15-232 Omar Bradford, Esq., Genovese, Joblove & Battista, P.A. (Cone of Silence)

Mr. Bradford:

Based upon the opinion rendered by Assistant County Attorney Oren Rosenthal interpreting the documents on RFP 00196 to not specifically prohibit a written communication with the Mayor during the time that the Cone of Silence is in place, it is my opinion that you may communicate in writing with the Mayor, provided that you file a copy of the written communication with the Clerk of the Board pursuant to Section 2-11.1(t)1.(c) of the County Code of Ethics, which permits such communication unless specifically prohibited by the applicable RFP, RFQ or bid documents.

Sincerely,

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
19 W. Flagler Street, Suite 820
Miami, FL 33130
Tel: (305) 579-2594
Fax: (305) 579-0273
ethics.miamidade.gov



From: Rosenthal, Oren (CAO)
Sent: Tuesday, October 20, 2015 1:45 PM
To: Centorino, Joseph (COE) <CENTORI@miamidade.gov>; 'obradford@gib-law.com' <obradford@gib-law.com>
Cc: Benitez, Hugo (CAO) <HEB2@miamidade.gov>; Murawski, Michael P. (COE) <MURAWSK@miamidade.gov>
Subject: RE: Cone of Silence/Communication issue- RFP 00196

Mr. Centorino,

The County Attorney's Office has reviewed the language in Section 1.4 and 1.5 of the Solicitation. In our opinion, the language cited from Section 1.4, when read in pari materia with other sections of the RFP, does not impose an "express prohibition" on written communications with any county employee, official or member of the Board of County Commissioners. The only express prohibition is contained in Section 1.5 and relates solely to the Selection Committee. The language in question in Section 1.4 should be read to only require that the Procurement Contracting Officer, along with the Clerk of the Board, be included in the receipt of any written communication not covered by the Cone of Silence. We will work with staff to clarify this language in the future. Thank you.

Oren Rosenthal
Assistant County Attorney

From: Centorino, Joseph (COE)
Sent: Monday, October 19, 2015 2:46 PM
To: 'obradford@gib-law.com'
Cc: Rosenthal, Oren (CAO); Benitez, Hugo (CAO); Murawski, Michael P. (COE)
Subject: FW: Cone of Silence/Communication issue- RFP 00196
Importance: High

Mr. Bradford:

I do not know the identity of the person with whom you may have spoken at the County Attorney's Office, but I have spoken with both Oren Rosenthal and Hugo Benitez, the two Assistant County Attorneys who would ordinarily be involved in an issue such as this one, and I am informed that neither has spoken with you about this issue.

While the Ethics Commission is empowered to render binding opinions concerning interpretation of the provisions of the Cone of Silence Ordinance, this issue appears to involve primarily an interpretation of language in the RFP. We do not usually opine on the interpretation of language in County bid documents. That is an issue for the County Attorney. I suggest that you contact either Oren Rosenthal or Hugo Benitez for that interpretation.

Upon their providing such interpretation, this office will be in a position to answer any remaining issue concerning the Cone of Silence. I suggest that until we reach a definitive answer on this matter, you refrain from any written communications with anyone other than the contracting officer.

Sincerely,

Joseph M. Centorino

Executive Director and General Counsel
Miami-Dade Commission on Ethics and Public Trust
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From: Murawski, Michael P. (COE)
Sent: Monday, October 19, 2015 2:02 PM
To: Diaz-Greco, Gilma M. (COE) <GDIAZGR@miamidade.gov>
Cc: Centorino, Joseph (COE) <CENTORI@miamidade.gov>
Subject: RE: Cone of Silence/Communication issue- RFP 00196
Importance: High

Just got off the phone with Mr. Bradley, he is getting a bit of a ping pong runaround from the CAO who says this is an ethics issue...he would like some kind of opinion in writing that there would be no COS violation if he contacts the mayor in writing and copies the Clerk of the board.

From: Diaz-Greco, Gilma M. (COE)
Sent: Monday, October 19, 2015 1:57 PM
To: Murawski, Michael P. (COE)
Subject: RE: Cone of Silence/Communication issue- RFP 00196

Joe is handling this-

From: Murawski, Michael P. (COE)
Sent: Monday, October 19, 2015 1:49 PM
To: Diaz-Greco, Gilma M. (COE)
Subject: FW: Cone of Silence/Communication issue- RFP 00196

FYI, I spoke to this guy on Friday...he said he was dealing with you on this issue. I told him to contact the procurement officer and/or the County Attorney as it seemed there is an inconsistency in the RFP documents.

From: Bradford, Omar [<mailto:obradford@gjb-law.com>]
Sent: Friday, October 16, 2015 4:36 PM
To: Murawski, Michael P. (COE)
Subject: FW: Cone of Silence/Communication issue- RFP 00196

Please see below. Thank you.

From: Bradford, Omar
Sent: Wednesday, October 14, 2015 10:01 AM
To: 'gdiazgr@miamidade.gov'
Subject: Cone of Silence/Communication issue- RFP 00196

Ms. Diaz-Greco,

It was truly a pleasure speaking with you yesterday. I really appreciate you taking the time to discuss these issues with me. Pursuant to your request, attached you will find the subject RFP.

For background purposes, the Selection Committee has already made its recommendation but the Mayor has not yet formally or informally given his. Through certain correspondence, members of the County staff, including the Procurement Officer, Maria Carballeira, have been made aware of potential substantive and procedural issues related to the RFP. However, at this point, based on the language contained in section 1.4 (Cone of Silence) to the RFP, it is not crystal clear whether a proposer is able to communicate directly with the Mayor, in writing, with a copy to the Clerk of the Board. Based on our review, because there is no express prohibition against written communications with the Mayor (with copy to the Clerk of the Board) unlike the express prohibition in any communications with the Selection Committee (as contained in section 1.5 of the RFP), it appears that such communication in writing with the Mayor is permissible under these circumstances.

The RFP at Section 1.4 (just as stated in Section 2-11.1(t) the County Code) states that “[t]he provisions [of the Cone of Silence] do not apply to, among other communications...communications in writing at any time with any county employees, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP or RFQ documents.” At this point in reading the RFP it would appear that correspondence with the Mayor in writing with a copy to the Clerk of the Board is permissible. However, 2 paragraphs later (in the same section), the RFP reads, “[a]ny and all written communications regarding the Solicitation are to be submitted only to the Procurement Contracting Officer with a copy to the Clerk of the Board.” This sentence would suggest that correspondence with any county employee, official, or member of the Board of County Commissioners is actually not permissible. Then, two sentences later (in the same section), the RFP states that “[t]he Cone of Silence shall not apply to...communications in writing at any time with any county employee, official or member of the Board of County Commissioners unless specifically prohibited by the applicable RFP, RFQ or bid documents.” At Section 1.5 of the RFP there is an express prohibition against communication with Selection Committee Members. This is the only express prohibition with regard to communications with specific parties and there is no mention of a prohibition against communications in writing with the Mayor.

Naturally, the entirety of the language seems to be contradictory or at the very least not crystal clear. The RFP seems to essentially sanction such communication with the Mayor with copy to the clerk three times but sandwiched in between is a possible prohibition on same (without specific language regarding the Mayor or anyone else). Importantly, the RFP does expressly make clear the prohibition against communications with the Selection Committee. Therefore, it appears that the logical conclusion is that if the RFP intended to prohibit communications in writing with the Mayor it would have done so in the same or similar manner as it did with regard to the Selection Committee.

Although we feel that communications in writing with the Mayor, pursuant to the language of the RFP and the Code section on the Cone of Silence, is permissible, we are writing to you in an abundance of caution in order to get absolute clarity on this issue. We respectfully request an expedited response in light of the time sensitive nature of these proceedings. Please let me know if there is any additional information that I may provide for you or if you have any questions. Thank you.

Very truly yours,
--Omar K. Bradford



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